

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 116 OF 2016

Archana Ganesh Manglani and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Nilesh S. Kadam for the Applicants.

Mr. Aashish Satpute for Respondent No. 2.

Ms. S. D. Shinde, learned APP for the State.

Coram : RANJIT MORE &
S. C. GUPTA, JJ.

Date : **February 3, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties and learned APP for the State. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash the FIR bearing No.150 of 2015 registered at Pune Railway Station, Pune City on 3rd June 2015. The said FIR is registered at the instance of Respondent No.2, wherein the allegations made against the Applicants are with regard to the commission of the offence punishable under sections 306 read with 34 of the Indian Penal Code, 1860.

2. Respondent No.2 and Applicant No.1 are the husband and wife. Rest of the Applicants are the family members of Applicant

No.1. The matrimonial discord between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one another and the subject matter of present application is one of them.

3. Applicant No.1 filed complaint in Police Station alleging that Respondent No.2 and his parents are harassing her. The said complaint was later on withdrawn. The father of Respondent No. 2, i.e., father-in-law of Applicant No.1 committed suicide on 2nd June 2015 and thereafter Respondent No.2 filed present FIR against the Applicants alleging that his father committed suicide because of the mental torture caused by the Applicants.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above FIR, by consent of original complainant - Respondent No. 2 herein.

5. Respondent No.2 has filed an affidavit dated 3rd

February 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Applicants as all the disputes between himself and the Applicants have been settled. He has solemnly affirmed that he has no objection for quashing the subject FIR filed by him against the Applicants.

6. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the subject FIR lodged by him against the Applicants.

7. True it is that the offence punishable under section 306 of IPC is non-compoundable and cannot even be quashed with the consent of the Complainant, nevertheless in the peculiar facts and circumstances of the present case we are inclined to exercise our powers under section 482 of the Code of Criminal Procedure, 1973 to grant the relief of quashment of FIR. The disputes between the parties are predominantly matrimonial. Seems that the family discords might have led the father of Respondent No.2 to commit suicide, but as the parties have now decided to put an end to all sorts of disputes and

lead the life in harmony and have peace in the family, we are of the view that this is the fit case to quash the FIR. It will also obviate the hardships of the parties in attending Courts and to reinforce faith and confidence amongst each other.

8. We also find support for our view from the landmark decision of the Apex Court in in B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386] and Abasaheb Yadav Honmane vs. State of Maharashtra [2008(5) LJ.Soft 46]. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the FIR alive except ultimately burdening the Criminal Courts which are already overburdened. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the subject FIR. Hence, application is allowed in terms of prayer clause 18(i). However, in the facts and circumstances of the case we are of the view the Applicants need to be saddled with costs of Rs.25,000/- [Rs. Twenty five thousand only] which shall be paid to the "Tata Memorial Hospital, Mumbai" an

institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicants shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station and Magistrate that subject FIR shall not be treated to have been quashed and that police / Magistrate shall proceed against the Applicants in accordance with law.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]