

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION No. 128 OF 2016**

Vishal shriram Kevat.

..Applicant.

*Versus*

State of Maharashtra & Another.

..Respondents.

Mr. S. R. Gaud for the Applicant.

Mr. M. S. Sapkale for Respondent No. 2.

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

Coram : RANJIT MORE &  
V. L. ACHLIYA, JJ.

Date : **February 23, 2016.**

P. C. :

1. Heard learned Counsel appearing for the respective parties and learned APP for the State. By this application, the Applicant has invoked the powers of this Court under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of C.C.No. 109/PW/2016 pending on the file of learned Metropolitan Magistrate, 46<sup>th</sup> Court, Mazgaon, Sewri, [now it is transferred to 56<sup>th</sup> Court]. The said proceeding is the outcome of an FIR registered against the Applicant and other two accused persons with Agripada Police Station for the offence punishable under sections 326 and 504 read with 34 of the Indian Penal Code, 1860, being CR No. 282 of 2015 dated 28<sup>th</sup> September 2015. Other two accused persons are not before this Court, therefore, quashment of the proceeding is

sought as against the Applicant herein only.

2. The said FIR is registered at the instance of Respondent No.2. The complainant is the real sister of Respondent No.3, who was injured in the incident. FIR reveals that the Applicant, accused Shravan, Pawan and Respondent No.3 are friends. On 26<sup>th</sup> September 2015, they had a drink together and on some trifle reason a verbal altercation took place between these friends, which ultimately escalated into a fight and thereafter, Shravan and present Applicant got hold of Respondent No.3 and Pawan assaulted him with the piece of Tile.

3. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceedings, 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 criminal proceedings as against the Applicant only, by consent of original complainant and injured person respectively Respondent No.2 and Respondent No.3 herein.

4. Respondent Nos 2 and 3 have filed a joint affidavit dated 23<sup>rd</sup> February 2016 wherein they have stated that they are not

interested in continuing with the criminal prosecution of the Applicant in the subject FIR and criminal case. They have solemnly affirmed that they are withdrawing all the allegations made against the Applicant in the said FIR and that they have no objection for quashing the proceedings of the criminal case as against the Applicant only.

5. Respondent Nos. 2 and 3 are personally present before the Court. On specific query made by us, they submitted that they have made the said affidavit on their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the FIR / criminal proceedings in question instituted at their instance against the Applicant herein.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the crime. The offence alleged cannot be said to have any impact on the society. The Applicant is only 20 years old. The continuation of trial may hamper his future. We find that quashing of the proceeding against the Applicant will help to keep harmony between the parties and will enable them to live with peace and love. We find that the continuance of the criminal proceedings against the Applicant in the aforesaid case will be a futile

exercise.

7. 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 criminal proceeding pending against the Applicant except burdening the Criminal Courts which are already overburdened.

8. 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 criminal proceedings in question. Accordingly, application is allowed in terms of prayer clause (a). However, in the fact and circumstances we find it would be appropriate to saddle the Applicant with the cost of Rs.5,000/-, which shall be paid to "**Shanti Avedna Sadan**" an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicant 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 criminal proceedings shall not be treated to have been quashed and that Magistrate shall proceed against the Applicant in accordance with law.

9. It is made clear that proceedings of the subject criminal case are quashed only against the Applicant herein and the case shall go on as against other accused persons in the subject criminal case.

**[V. L. ACHLIYA, J.]**

**[RANJIT MORE, J.]**