

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 139 OF 2016

Nitin Jaswantlal Mehta and Another. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Sonal V. Parab i/b Rajeev Sawant & Associates for the Applicants.

Mr. Vinay J. Bhanushali i/b Nidhi G. Dotiya for Respondent No. 2.

Mr. F. R. Shaikh, learned APP for the State.

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

Date : **February 23, 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 proceedings of CC No.62/PW/14 pending on the file of learned Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai. The said proceeding has arisen from an FIR registered against the Applicants with Pydhonie Police Station, Mumbai for offences punishable under sections 324 and 504 read with 34 of the Indian Penal Code, 1860, being CR No. 334 of 2013. The said FIR is registered at the instance of Respondent No.2 herein.

2. The learned Counsel appearing for the respective

parties submitted that during the pendency of trial of above criminal proceedings, with the help and intervention of friends and well-wishers, the parties have amicably settled all 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, by consent of original complainant - Respondent No. 2 herein.

3. Respondent No.2 has filed an affidavit dated 28th January 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Applicants in the subject criminal case in view of amicable settlement of disputes between himself and the Applicants. He has solemnly affirmed that he has no objection for quashing the proceedings of the criminal case No. CC No. 62/PW/14 originating from CR No. 334 of 2013 registered at his instance.

4. Respondent No.2 is personally present before the Court. On specific query made by us, he 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 criminal proceedings in question instituted at his instance against the Applicants for the offence

punishable under sections 504 and 324 read with 34 of the Indian Penal Code, 1860.

5. It can, thus, be seen that the matter has been amicably settled between the parties. Admittedly, there is one more FIR in respect of the same incident which is registered at the instance of the Applicant herein against Respondent No.2 and his son. A separate application under section 482 of the Code is filed for quashing the said FIR with the consent of the Applicant herein. We have perused the FIR. We find that the fight had occurred on the spot in the heat of moment. The dispute on the point of parking of vehicle has escalated into a fight due to verbal altercation. This assault was more of a crime against the individual than against the society at large. We also find that allowing the quashing in the instant will endure the parties to keep harmony between them and will enable them to live with peace and love.

6. In the aforesaid facts and 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 proceedings pending except burdening the Criminal Courts which

are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the Applicants in the instant case will tantamount to abuse of the process of Court and therefore it is in the fitness of things to quash the proceedings in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

7. We find support from the decision of the Apex Court in *Narinder Singh vs. State of Punjab* [2014 AIR SCW 2065] to accede to the prayer of quashment. Accordingly, application is made absolute in terms of prayer clause (a). However, we also find it would be appropriate to saddle the Applicants Petitioner with the cost of Rs.10,000/-, which shall be paid to “NAAM Foundation”, an NGO which is working with the object of development of disadvantaged villages and lives of people in the rural part of our country. 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 Magistrate that subject criminal proceedings shall not be treated to have been quashed and that Magistrate shall proceed against the Applicants in accordance with law.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]