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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 695 OF 2016

1. Shri. Gulabchand Vijaywargi,
2. Shri. Rohit G. Vijaywargi,
3. Shri Sudhir G. Vijaywargi ..Petitioners
V/s.

State of Maharashtra and anr. ..Respondents

Mr. Ayaz Khan for the petitioners.
Mr. F.R. Shaikh, APP for respondent-State.
Mr. S.T. Manek for respondent no. 2.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : FEBRUARY 17, 2016**

P.C. :-

1. Heard learned counsel for the petitioners, learned counsel for respondent No.2 and learned A.P.P. for the State.

2. This petition is filed under Article 226 of the Constitution of India and under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the F.I.R. bearing C.R. No. 508 of 2015 registered with Mulund police station, at the instance of respondent No.2 against the petitioners for the offences punishable under Section 406, 420, 465, 467, 471 read with 34 and section 138 of N.I. Act.

3. Pending investigation, the parties amicably settled their

dispute and have approached this Court for quashing the subject subject F.I.R. by consent. Respondent No.2 has filed an affidavit dated 16th February, 2016. In paragraph 5 he has stated that he has no objection if the subject F.I.R. is quashed. Respondent No.2 is personally present before the Court. He is identified by his Advocate. On being questioned, respondent No.2 specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection if the subject subject F.I.R. is quashed. He also stated that he is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

4. 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 offence. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh V/s. State of Punjab [2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject F.I.R. is required to be quashed. However, at the same time, cost needs to

be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

5. Accordingly, the petition is made absolute in terms of prayer clause (a) subject to payment of costs of Rs.20,000/-. Out of the same, the petitioners shall pay to Rs.10,000/- to Tata Memorial Trust for the use use of its philanthropic purposes and respondent no. 2 shall pay Rs.10,000/- to Central Police Welfare Fund within a period of two weeks from today and thereafter produce the receipt thereof on the file of this petition, failing which, the writ petition shall stand dismissed automatically without further reference to the Court.

6. At this stage it is reported that petitioner no. 3 is in custody in the said FIR. Since by this order, the said FIR is being quashed and set aside, petitioner no. 3 is directed to be released forthwith, if not required in any other case.

7. Subject to the above, the petition stands disposed of.
Parties to act on authenticated copy of this order.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)