

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2493 OF 2015

Mrs. Pooja Tushar Sagar and Others. ..Petitioners.

Versus

State of Maharashtra and Others. ..Respondents.

Mr. Amod Kumar for the Petitioners.

Mr. Tushar Sagar Respondent No. 2 in-person.

Mr. J. P. Yagnik, learned APP for the State.

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

Date : **January 8, 2016.**

P. C. :

1. Mr. Amod Kumar, learned Counsel appearing for the Petitioner seeks leave to amend the cause title of the petition so as to implead the original complainant as party Respondent in this petition. Leave granted. Necessary amendment be carried out forthwith. Original complainant Mr. Tushar Sagar is present. He waives notice.

2. Heard learned Counsel appearing for the Petitioner and Mr. Tushar Sagar – Respondent No.2 who is appearing in person.

3. By this petition filed under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 the Petitioners are seeking to quash the FIR

registered against them with Kandivali Police Station, being CR No. 150 of 2015. The said FIR is registered at the instance of Respondent No.2 and the allegation against the Petitioners is that they have committed the offence punishable under section 385 read with 34 of the Indian Penal Code, 1860.

4. The Counsel appearing for the Petitioner as well as Mr. Sagar (Respondent No.2) submitted that during the pendency of investigation into above FIR, the parties decided to settle their disputes as per the consent terms arrived at in Miscellaneous Application No. 65 of 2015 filed on the Civil Appellate Side of this Court when the parties were referred to Mediator Mr. P. B. Shah and pursuant to the understanding arrived at between them, the instant petition is filed for quashing the above FIR with the consent of Respondent No.2.

5. Affidavit dated 8th January 2016 has been filed by Respondent No.2. In the said affidavit, he has stated that he is not interested in continuing with the criminal prosecution of the the Petitioners as per his FIR No. 150 of 2015. He has solemnly affirmed that he has no objection for quashing the FIR in question registered at his instance against the Petitioners.

6. 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 the FIR question filed by him against the Petitioners for the offence punishable under sections 385 and 420 read with 34 of the Indian Penal Code, 1860.

7. 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. 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 in question alive except ultimately 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 FIR in question. Accordingly, petition is allowed and subject FIR bearing No. 150 of 2015 registered with Kandivali Police Station is quashed.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]