

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3519 OF 2015

Ramesh Eknath Salvekar and Another. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. A. V. Anturkar, Senior Advocate with Mr. S. B. Deshmukh for the Petitioner.

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

Ms. Latika Belindage for Respondent No. 2.

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

Date : **January 21, 2016.**

P. C. :

1. Heard the learned Senior Counsel appearing for the Petitioners and the learned Counsel appearing for Respondent No. 2 as well as learned APP for the State. By this writ petition filed under Article 226 of the Constitution of India, the Petitioner is seeking to quash FIR bearing No.98 of 2015 registered with Mangaon Police Station on the complaint of Respondent No.2 wherein the Petitioners are alleged to have committed an offence punishable under section 447 of the Indian Penal Code, 1860.

2. Initially quashing of FIR was sought on merits, however, during the pendency of this petition, parties agreed to settle their disputes by mutual understanding. The Petitioner offered an amount of Rs.50,000/- to Respondent No.2 and

Respondent No.2 has agreed to accept this amount. Learned Counsel appearing for the Petitioner submitted that within a week from today, the demand draft for an amount of Rs.50,000/- will be sent to 2nd Respondent at his address given in the cause title of this petition. Statement is accepted as an undertaking to this Court.

3. Respondent No.2 has filed an affidavit in this Court and has given no objection to quash the subject FIR. 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 subject FIR lodged by him against the Petitioners, being FIR No. 98 of 2015.

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 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.

5. 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. Accordingly, application is allowed in terms of prayer clause (A).

6. The learned Counsel appearing for Respondent No. 2 submitted that it may be observed that amount of Rs.50,000/- is being paid by the Petitioners towards removal of the alleged encroachment in his land. Learned Counsel appearing for the Petitioner, however, states that the Petitioners do not admit that there is any encroachment made by them on 2nd Respondent land and Rs.50,000/- is being paid to settle the present dispute. In our view, Respondent No.2 is always at liberty to file appropriate proceedings of civil nature to claim compensation. Undoubtedly, the Petitioner is entitled to oppose such proceedings. Ultimately, it is for the civil Court to decide such issue on the basis of evidence that may be produced before it. It is clarified that this order shall not be construed as an expression of any opinion on the merits of the matter.

7. Writ petition stands disposed of.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]