

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4749 OF 2015

Nitin Mohan More and Others.

..Petitioners.

Versus

State of Maharashtra.

..Respondent.

Ms. Sartaj Shaikh for the Petitioners.

Ms. Munira Palankpuwala for Respondent No. 2.

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

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

Date : **February 3, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties and learned APP for the State. By this petition filed under Article 226 of the Constitution of India, the Petitioners are seeking to quash FIR bearing No. CR-I-569 of 2015 registered against them with Tulinj Police Station, District Palghar at the instance of Respondent No. 2 herein. The allegations levelled against the Petitioners in the said FIR are with regard to the commission of offence punishable under sections 323, 324 and 504 read with 34 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and intervention of 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 petition is filed for quashing the above FIR, by consent of

original complainant - Respondent No.2 herein.

3. Respondent No.2 has filed an affidavit dated 27th January 2016 wherein he has stated that in view of the settlement of disputes with the Petitioners, he is not interested in continuing with the criminal prosecution of the Petitioners in the subject FIR lodged by him. He has solemnly affirmed that he has no objection for quashing the FIR in question lodged by him against the Petitioners.

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 the FIR in question initiated by him against the Petitioners, being CR I-569 of 2015 registered with Tulinj Police Station.

5. 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 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 subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

6. 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, petition is made absolute in terms of prayer clause (b). However, in the facts and circumstances of the case we are of the view that the Petitioners need to be saddled with the costs of Rs.2,000/- each, 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 Petitioners shall pay the said cost and produce the receipts thereof on the file of this Court within four weeks from today. Failing to pay cost and produce the receipts within stipulated time, petition 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 that subject FIR shall not be treated to have been quashed and that police / Magistrate shall proceed against the Petitioners in accordance with law.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]