

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1331 OF 2015

Mrs. Shahanaz Hamza Shaikh and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. H. S. Shinde for the Applicants.

Mrs. S. V. Sonawane, learned APP for the State

Mr. S. M. Deshmukh for Respondent No. 2.

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

Date : **February 11, 2016.**

P. C. :

1. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash an FIR registered against them with Sahar Police Station, Mumbai for the offences punishable under sections 363, 342, 323, 324 read with 34 of the Indian Penal Code, 1860, being CR. No.321 of 2015. 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 investigation into above FIR, with the help and intervention of family members, 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 application is filed for quashing the above FIR, by consent of original complainant Respondent No.2 herein.

3. Respondent No.2 (original complainant) has filed an affidavit dated 11th February 2016 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Applicants in the subject FIR registered at his instance. He has solemnly affirmed that he is withdrawing all the allegations made against the Applicants in the said FIR and that he has no objection for quashing the FIR in question.

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 registered by his instance against the Applicants.

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 the crime. 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. 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, application is allowed in terms of prayer clause (a). As the police machinery and Court machinery was put into motion by the parties, we find it would be appropriate to saddle the Applicants with the cost of Rs.10,000/-, which shall be paid to "Tata Memorial Hospital" an institution that takes care of the advanced and terminally ill cancer patients. 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, the 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 Police Station that subject FIR shall not be treated to have been quashed and that police / Magistrate shall proceed against the the Applicants in accordance with law.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]