

Nalawade/patilsr

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION No. 408 OF 2016

Mr. Shashikant C. Gaikwad and ors. ..Petitioners.

vs.

The State of Maharashtra and ors. ..Respondents.

Mr. M.K. Dubey for the petitioners.

Ms. S.D.Shinde, APP. for the State.

Mr. N.K. Dubey i/by V. T. Dubey for Respondent No.2.

CORAM: SHRI RANJIT MORE &
A.S.GADKARI, J.

DATE : 01st August, 2017

P.C.

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for respondent No.2.

2. This petition is filed for quashing and setting aside
the proceedings of Criminal Case No.266/PW/15 pending on
the file of learned 53rd Metropolitan Magistrate at Mulund,
Mumbai. The said case is arising out of CR No.127 of 2012
registered with Kanjurmarg Police Station, Mumbai at the
instance of respondent No.2 for the offences punishable
under Sections 465, 471, 420 read with 34 of the Indian Penal
Code.

3. The learned Counsel appearing for the respective
parties pending trial of the subject criminal proceedings the

parties decided to settle the dispute amicably and in pursuance of the understanding arrived at between them they have approached this Court to quash the subject proceedings by consent.

4. Respondent No.2 has accordingly filed an affidavit dated 18.1.2016 and in Para 6 he has given no objection to quash the subject criminal case. Respondent No.2 is personally present in Court. On specific query made by us, he states that he has been explained the contents of the affidavit and he understood the contents thereof. He also states that the dispute between the parties is settled. He has received the possession of the room in question and therefore, he has no objection to quash the proceedings in the subject case.

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. 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 subject criminal proceedings pending except 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 criminal proceedings. In that view of the matter, the petition deserves to be allowed. Hence, the petition is made absolute in terms of prayer clause (b). In the facts and circumstances, we find it would be appropriate to saddle the Petitioners with the cost of Rs.20,000/-, which shall be paid to the “**Tata Memorial Hospital**” 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 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, petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

(A.S.GADKARI, J.)

(RANJIT MORE, J.)