

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 805 OF 2017

Kubra Imran Kadari.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Tahera Qureshi for the Petitioner.

Mr. K. V. Saste, APP for the State.

Mr. Khalid Ansari for Respondent No. 2.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.

Date : **July 3, 2017.**

P. C. :

1. At the outset, the learned Counsel appearing for the Petitioner seeks leave to amend the prayer clause. Leave granted. Necessary amendment be carried out forthwith.

2. Heard the learned Counsel appearing for the respective parties. Petition is filed seeking quashment of criminal proceedings bearing CC. No. 649/PW/2013 pending on the file of learned Additional Metropolitan Magistrate, 69th Court at Mazgaon (Sewree). The said proceeding is the offshoot of FIR bearing CR. No. 196 of 2012 registered with Nagpada Police Station for the offence punishable under section 380 of the Code of Criminal Procedure, 1973. The said FIR was registered against the Petitioner at the instance of Respondent

No. 2 herein.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of friends, family members and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No. 2.

3. Respondent No. 2 has filed her affidavit dated 20th February 2017 wherein she has admitted that there has been settlement of the disputes between herself and the Petitioner. She has further solemnly affirmed that she has no objection for quashing the proceedings of CC No. 649/PW/2013 pending on the file of learned Additional Metropolitan Magistrate, 69th Court, Mazgaon.

4. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection

for quashing the criminal proceedings in question initiated by her against the Petitioner for the offence punishable under sections 380 of the Indian Penal Code, 1860.

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 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. Accordingly, petition is made absolute in terms of prayer clause (a). In the circumstances, we find it would be appropriate to saddle the Petitioner with the cost of Rs.5,000/-, which shall be paid to

the "Tata Memorial Hospital" an institution that takes care of the advanced and terminally ill cancer patients. For quashment to take effect, the Petitioner 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*.

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]