

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1439 OF 2016

Suresh Raghunath Ghanekar.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. S. K. Farakate for the Petitioner.

Mrs. A. S. Pai, APP for the State.

Mr. Yatin N. Shah for Respondent No. 2.

Coram : Ranjit More &
P. R. Bora, JJ.

Date : **January 13, 2017.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and the learned Counsel appearing for the Respondent No. 2 and learned APP for the State. The petition is filed under Article 226 of the Constitution of India read with 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of Case No. 493/PW/2015 pending on the file of learned Metropolitan Magistrate, 31st Court, Vikhroli. The said case has arisen from the FIR bearing CR No. 102 of 2015 registered with Parkside Police Station, Mumbai at the instance of Respondent No. 2 for the offence punishable under section 354(D) of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceedings, 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 criminal proceedings, by consent of original complainant - Respondent No. 2 herein.

3. Respondent No.2 has filed an affidavit dated 22nd September 2016 wherein she has stated that she is not interested in continuing with the criminal prosecution of the the Petitioner in the subject criminal case. She has solemnly affirmed that she has no objection for quashing the proceedings of the criminal case No. 493/PW/2015.

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 instituted at her instance against the Petitioner for the offence punishable under sections 354(D) 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. 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 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 criminal proceedings. Accordingly, petition is made absolute in terms of prayer clause (a). As the police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Petitioner with the cost of Rs.10,000/-, which shall be paid to the “**Shanti Avedna Sadan**” an institution that takes care of the advanced and terminally ill cancer patients. For the 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 shall be treated as *non-est*. Registry will then intimate the concerned Magistrate that subject proceedings shall not be treated to have been quashed and that Magistrate shall proceed against the Petitioners in accordance with law.

[P. R. BORA, J.]

[RANJIT MORE, J.]