

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1749 OF 2017

Jonathan Fernandes.

..Petitioner.

Versus

Judith Fernandes and Another.

..Respondents.

Mr. Nikhil Mengde for the Petitioner.

Mr. Sujit Pathak for Respondent No. 1.

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

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

Date : **June 21, 2017.**

P. C. :

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

2. Heard the learned Counsel appearing for the Petitioner, the learned Counsel appearing for the Respondent No. 1 and the learned APP for the State.

3. Petition is filed for quashing the FIR bearing CR. No. 117 of 2015 registered with MIDC Police Station for the offence punishable under section 465, 468, 471, 420 read with 34 of the Indian Penal Code, 1860. the Petitioner and Respondent No. 1 are the husband and wife. The matrimonial discord between the parties gave rise to the filing of civil as well as criminal proceedings. The subject FIR is one of

them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement. Pursuant to the same, present petition is filed for quashing the above FIR by consent of Respondent No. 1. They submitted that accordingly parties have filed consent terms in MJ Petition No. F-1286 of 2016 before the Family Court at Bandra, Mumbai, copy of which is annexed at Exhibit- B to the petition.

5. Affidavit dated 10th June 2017 has been filed by Respondent No. 1. In the said affidavit, she has stated that in view of the settlement of all disputes, she has no objection if this petition is allowed. She has further given consent for quashing the subject FIR lodged against the Petitioner at her instance.

6. Respondent No.1 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 FIR in question initiated by her against the Petitioner.

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

8. 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).

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]