

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2197 OF 2017

Komal Sachin Tatiwala.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. P. H. Jaggi for the Petitioner.

Mr. N. B. Patil, APP for the State.

Mr. Darmesh Joshi for Respondent No. 2.

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

Date : **June 14, 2017.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner, learned Counsel appearing for Respondent No. 2 and learned APP for the State. Writ petition is filed seeking quashment of FIR bearing No. 91 of 2017 registered with MRA Marg Police Station, Mumbai for the offence punishable under sections 279 and 338 of the Indian Penal Code, 1860 and section 134(A)(B) of the Motor Vehicles Act, 1988.

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 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. 2.

3. Affidavit dated 7th June 2017 has been filed by Respondent No. 2. In paragraph 8 of the said affidavit, he has stated that he is not interested in continuing with the criminal prosecution of the Petitioner. He has solemnly affirmed that he is withdrawing all the allegations made against the Petitioner in the said FIR and that he has no objection for quashing the subject FIR registered at his instance.

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 him against the Petitioner.

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 FIR alive pending except ultimately 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 FIR. Accordingly, petition is made absolute in terms of prayer clause (b). However, we find it would be appropriate to saddle the Petitioner with the cost of Rs.10,000/-, which shall be paid to "TATA Memorial Hospital". 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/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 shall proceed against the Petitioners in accordance with law.

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]