

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 946 OF 2016

Amit H. Jhaveri. ..Applicant.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. S. P. Kadam for Applicant.
Mrs. S. V. Sonawane, APP for the State.
Mr. Krishna Kumar Vaidyanathan, Respondent No. 2 in-person.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.
Date : **July 7, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant, the learned APP for the State and Mr. Vaidyanathan, Respondent No. 2 in persons.
2. The petition is filed for quashing the FIR bearing CR.No. 489 of 2015 registered with Malad Police Station against the Applicant at the instance of Respondent No. 2 for the offence punishable under section 406 and 420 read with 34 of the Indian Penal Code, 1860.
3. The learned Counsel appearing for the Applicant 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 and pursuant to the understanding arrived at

between them, present application is filed for quashing the above FIR by consent.

4. Respondent No.2 as well as Respondent Nos.3 and 4 (brother and mother of Respondent No. 2) have filed common affidavit dated 11th May 2017. In the said affidavit they have recorded no objection for quashing the subject FIR.

5. Respondent No.2 is personally present before the Court. We have verified his identity on the basis of Pan Card, copy of which is placed on record. On specific query made by us, he submitted that he and Respondent No. 3 and 4 have made the said affidavit on their own free will, without there being any pressure or undue influence. He has further confirmed that he as well as his brother and mother have no objection for quashing the subject FIR against the Applicant since total amount of Rs.78 lakhs have been received by them from the Petitioner.

6. 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.

7. 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, application is allowed in terms of prayer clause (b). 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 Applicant with the cost of Rs.20,000/-, which shall be paid to “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicant 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, application 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.]