

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3134 OF 2017

Rahul Ashok Panjwani

Petitioner

versus

The State of Maharashtra and another

Respondents

Mr.Sadanand Shetty i/by Snehal Khairnar for petitioner.

Mr.V.B.Konde-Deshmukh, APP, for State.

Mr.Rizwan Merchant for Respondent no.2.

CORAM : RANJIT MORE AND
PRAKASH D. NAIK, JJ.

DATE : 6th October 2017

PC :

1. Heard learned counsel for petitioner, respondent no.2 and learned APP. The petition is filed for quashing and setting aside the proceedings of criminal case bearing No.1039/PW/2014 pending on the file of learned Additional Chief Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai. The said case arises out of registration of CR No.23 of 2014 with Cuffe Parade Police Station, Mumbai at the instance of respondent no.2 for the offence under Sections 354, 504 and 506(2) of Indian Penal Code, 1860.

2. Pending trial, parties have settled their dispute amicably and in pursuant to the understanding arrived at between them, they have come before this Court to settle the case by consent. The petitioner has filed an affidavit dated 29th July 2017, a copy of which is annexed as Annexure-C, page 45 to the petition.

3. In paragraph 4 of the affidavit dated 29th July 2017, the petitioner has made following averments :

“4. I hereby wish her well and reiterate my commitment of good conduct and solemnly in good faith confirm my good intentions and conduct. I further ensure that I am ready and willing to execute a bond for good behaviour for a period of 6 months before the Senior Police Inspector of Cuffe Parade Police Station Mumbai out of my own accord.”

4. In the light of the assurance given by the petitioner, the respondent no.2 has also filed an affidavit dated 27th July 2017. In paragraph 5 she stated that she do not wish to proceed with the subject criminal case filed with the Cuffe Parade Police Station, Mumbai and she has sought to quash the proceedings in CC No.1039/WP/2014 pending before the learned Additional Chief Metropolitan Magistrate, 23rd Court, Esplanade, at Mumbai arising out of CR No.23 of 2013.

5. Respondent No.2 is personally present before the Court. On a 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 proceedings in CC No.1039/WP/2014 pending before the learned Additional Chief Metropolitan Magistrate, 23rd Court, Esplanade, at Mumbai arising out of CR No.23 of 2013 against 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 proceedings in CC No.1039/WP/2014 pending before the learned Additional Chief Metropolitan Magistrate, 23rd Court, Esplanade, at Mumbai arising out of CR No.23 of 2013 pending 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 proceedings in CC No.1039/WP/2014 pending before the learned Additional Chief Metropolitan Magistrate, 23rd Court, Esplanade, at Mumbai arising out of CR No.23 of 2013.

8. Accordingly, writ petition is allowed in terms of prayer clause (a), subject to payment of cost of Rs.30,000/-, which shall be paid to the **“Tata Memorial Hospital”** 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 costs and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay costs 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*.

9. Needless to state that the petitioner shall abide by his statements made in paragraph 4 referred above in his affidavit dated 29th July 2017 and shall file the same within a period of two weeks from today. It is made clear that failing to adhere to the statements made in paragraph 4 of above statement, will entail this order non-est.

(PRAKASH D. NAIK, J.)

(RANJIT MORE, J.)

MST