

Amk

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 3198 OF 2017

Rajaram Sabbulal Gupta & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. O. R. Tiwari for the Petitioners.
Mr. K. V. Saste, APP for the Respondent-State.
Ms. Suchita R. Tiwari for Respondent No.2.

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

DATE : 12th OCTOBER, 2017.

P. C. :

1. This is a petition under Article 226 of the Constitution of India seeking to quash Criminal Case No. 121/PW of 2016 pending on the file of Metropolitan Magistrate, 17th Court, Borivali, Mumbai. The said case has arisen out of C. R. No. 572 of 2015 registered with Samta Nagar Police Station at the instance of respondent No.2 for the offence punishable under Sections 325, 323, 504 read with 34 of the Indian Penal Code.

2. The learned Counsel appearing for the respective parties submitted that during pendency of trial, the parties have settled the dispute amicably by way of mutual settlement and pursuant to the understanding arrived at between them, present petition is filed for quashing the above

criminal proceedings, by consent.

3. Respondent No.2 has accordingly filed an affidavit dated 04.09.2017. In para 6 of the said affidavit, it is stated that the complainant-respondent No.2 has no objection for quashing the said criminal proceedings arising out of C. R. No. 572 of 2015.

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 subject criminal proceedings initiated by him against the Petitioners.

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 criminal proceedings 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 subject criminal proceedings. Accordingly petition is made absolute prayer clause (a) subject to payment of cost of Rs.10,000/- by the Petitioners in favour of “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the 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*.

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]