

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1003 OF 2017

Jayendra Babubhai Kotecha. ..Applicant.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. P. B. Pawar for the Applicant.

Mr. V. B. Konde-DEshmukh, APP for the State.

Ms. M. A. Ingale for Respondent No. 2.

Coram : RANJIT MORE &
PRAKASH D. NAIK, JJ.

Date : **October 9, 2017.**

P. C. :

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

2. This application under section 482 of the Code of Criminal Procedure, 1973 is filed seeking to quash and set aside FIR bearing CR No. 370 of 2017 registered with Kandivali Police Station at the instance of Respondent No. 2 for the offence punishable under section 324, 452, 504, 506 and 323 read with 34 of the Indian Penal Code, 1860.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and intervention 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 of

Respondent No. 2.

4. Respondent No. 2 has accordingly filed an affidavit dated 5th October 2017. In paragraph 7 of the said affidavit, he has given no objection to quash the subject FIR against the Applicant.

5. 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 FIR lodged by him against the Applicant.

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 (a).** In the

circumstances of the case, we find it would be appropriate to saddle the Applicant with the cost of Rs.20,000/-, which shall be paid Respondent No. 2 by demand draft. 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 FIR shall be treated as *non-est*.

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]