

Amk

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

WRIT PETITION NO. 4036 OF 2017

Mr. Madasamy Thangasamy & Ors.

.. Petitioners

Vs.

State of Maharashtra & Anr.

.. Respondents

Mr. T. J. Pandian for the Petitioners.

Mr. K. V. Saste, APP for the Respondent-State.

Mr. Aniketh Nair i/b Mr. Mustafa Motiwala 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 for quashing the criminal proceedings initiated by respondent No.2 against the petitioners, being C.C. No. 1438/2016 pending on the file of learned JMFC, Vashi, Navi Mumbai. The said case is an outcome of FIR bearing C. R. 194/15 registered with A. P. M. C. Police Station, Navi Mumbai for the offences punishable under Sections 420, 406 read with 34 of the Indian Penal Code.

2. It is submitted by the counsel for both the parties that the complainant and the petitioners have arrived at amicable settlement and pursuant to the understanding arrived at between them, the parties have approached this Court for quashing the said proceedings by consent of Respondent No. 2.

3. It is submitted that the charge-sheet is filed against the petitioner No.2 and the investigation is in progress against the rest of the petitioners.

4. The complainant is present in the Court and tendered affidavit executed on 12.10.2017. In para 5 of the said affidavit it is stated that the complainant/respondent No.2 has no objection for quashing the FIR against petitioners as well as Red Corner Notice issued against petitioner No.1.

5. We have ascertained from the complainant about the contents of the affidavit. The respondent No.2 confirmed that the parties have arrived at settlement and he has no objection for quashing the impugned proceedings against the petitioners.

6. In view of the nature of the allegations in the complaint and in view of the fact that the parties have settled the dispute, the proceedings can be quashed.

7. It can, thus, be seen that the matter has been amicably settled between the parties. On 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 and criminal proceedings pending

except ultimately burdening the Criminal Courts which are already overburdened.

8. 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 and criminal proceedings.

9. Accordingly, the petition is allowed in terms of prayer clause (a) subject to payment of cost of Rs.50,000/- to Tata Memorial Hospital to be paid by the petitioners within four weeks from today. For the quashment to take effect, the Petitioners 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.]