

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4063 OF 2017

Dr. Atul Pundalika Chirmade.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. K. U. Patil for the Petitioner.

Mr. A. R. Kapadnis, APP for the State.

Mr. K. Y. Mali for Respondent No. 2.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 7, 2017.**

P. C. :

1. The learned Counsel for the Petitioner at the outset seeks leave to amend the prayer clause in terms of draft amendment so as to give particulars of the subject criminal case. Leave granted.

Necessary amendment be carried out forthwith.

2. Heard Mr. Patil, the learned Counsel for the Petitioner, Mr. Kapadnis, the learned APP for the State and Mr. Mali, the learned Counsel for Respondent No. 2. The petition is filed seeking quashment of the proceedings of Criminal Case No. 11923 of 2017 pending on the file of learned Metropolitan Magistrate, 51st Court, Kurla, Mumbai. The said case has arisen from FIR bearing CR.No.411 of 2013 registered with Sion Police Station for the offence punishable under sections 336

of the Indian Penal Code, 1860. After completion of investigation, the police have filed charge-sheet for the offence punishable under sections 287 and 336 of IPC. The said FIR is registered at the instance of Respondent No. 2.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of 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 petition is filed for quashing the above criminal proceedings, by consent of Respondent No.2.

4. Respondent No. 2 has accordingly filed an affidavit dated 28th September 2017. In paragraph 3, he has stated that the subject CR was lodged out to emotional outburst and some misunderstandings. In paragraph 4, he has stated that he has no grievances of whatsoever nature against the Petitioner.

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 criminal proceedings in question initiated

by him 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 criminal proceedings pending except 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 criminal proceedings. Accordingly, petition is made absolute in terms of prayer clause (a). In the circumstances, we find it would be appropriate to saddle the Petitioner with the cost of Rs.25,000/-, 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 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*.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]