

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1070 OF 2017

Vanita Vishram Sawant and Others. ..Applicants.

Versus

Indira Balkrishna Rane and Another. ..Respondents.

Mr. Sujit B. Shelar for the Applicants.
Mr. Santosh Chari for Respondent No. 1.
Mr. S. R. Shinde, APP for the State.

Coram : Ranjit More &
Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 7, 2017.**

P. C. :

1. Heard Mr. Shelar, learned Counsel for the Applicants, Mr. Chari, learned Counsel for Respondent No.1 and Mr. Shinde, learned APP for the State. This application under section 482 of the Code of Criminal Procedure, 1973 is filed for quashing and setting aside FIR bearing CR. No. 41 of 2017 registered with Meghwadi Police Station, Mumbai at the instance of Respondent No. 1 for the offence punishable under sections 420 and 406 read with 34 of the Indian Penal Code, 1860. Respondent No.1-complainant is the aunt of Applicant No.1. Applicant No. 2 is the husband and Applicant No. 3 is the son of Applicant No. 1.

2. The learned Counsel appearing for the respective parties

submitted that during the pendency of investigation into above FIR, with the help and intervention of family members, 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. 1.

3. Respondent No.1 has accordingly filed an affidavit dated 7th November 2017. In paragraph 1 she has stated that she is 72 years old and suffering from various ailments. She has further stated that she has amicably settled the disputes with Applicant No. 1 and she has also filed joint consent terms dated 29th July 2017 before learned Metropolitan Magistrate, Andheri, which are annexed to application at page No. 15 [Exhibit- B]. in paragraph 3 she has solemnly affirmed that she has no objection if the FIR registered at her instance against the Applicants is quashed.

4. Respondent No.1 is personally present before the Court. On 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 subject FIR lodged by her against the Applicants.

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 FIR alive 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 FIR. Accordingly, application is allowed in terms of prayer clause (b). As the police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Applicants with the cost of Rs.10,000/-, 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 Applicants 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 proceedings/FIR shall be treated as *non-est*.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]