

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1113 OF 2017

Mohmad Shafi and Another. ..Applicants.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. H. S. Shinde for the Applicants.

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

Mr. Kunal Phoole i/b Mr. S. J. Vaidya for Respondent No. 2.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 16, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. The instant application is filed for quashing and setting aside the proceedings of criminal case bearing CC No.1016/PW/2017 pending on the file of learned Metropolitan Magistrate, Railway Mobile Court, Andheri. The said case is an offshoot of FIR bearing C.R.No.252 of 2016 registered with Oshiwara Police Station, Mumbai at the instance of Respondent No.2 for commission of the offence punishable under sections 324, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties

submitted that pending trial, parties have settled their disputes amicably and have approached this Court to quash the subject criminal case by consent of Respondent No. 2 and 3.

3. Respondent No. 2(the Complainant) and 3(the injured eye-witness) have filed their separate affidavits dated 14th November 2017. In paragraph 12 thereof, Respondent No. 2 and 3 have given no objection to quash and set aside the proceedings of the subject criminal case.

4. Respondent Nos. 2 and 3 are personally present before the Court. On specific query made by us, they submitted that they have made the said affidavits on their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the subject criminal proceedings 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 criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

6. In the light of 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, application is allowed in terms of prayer clause (A). 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 the “**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.]