

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4016 OF 2016

Dnyaneshwar Ankush Pawar.

..Petitioner.

Versus

State of Maharashtra.

..Respondent.

Mr. V. V. Purwant for the Petitioner.

Mr. J. P. Yagnik, APP for the State.

Mr. Sachin Deokar for Respondent No. 2.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.

Date : **June 30, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the Petitioner, the learned Counsel appearing for the Respondent No. 2 and the learned APP for the State. The petition is filed for quashing the FIR bearing CR No. 426 of 2016 registered with Vijapur Naka Police Station Solapur for the offence punishable under section 354A and 354D of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No. 2 herein.

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 relatives, friends and well-wishers, the parties have 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 FIR, by consent of Respondent No. 2.

3. Affidavit dated 30th June 2017 has been filed by Respondent No. 2. In paragraph 5 of the said affidavit, she has stated that she is not interested in continuing with the criminal prosecution of the Petitioner and that she has no objection for quashing the proceedings of the FIR against the Petitioner. Respondent No.2 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 criminal proceedings in question initiated by her against the Petitioner for the offence punishable under sections 354A and 354D of the Indian Penal Code, 1860.

4. Without commenting in any manner on the nature of offence, we feel it would be just and proper in the present case to exercise our power to quash the FIR for the reasons :

(A) the disputes between the Petitioner and Respondent No. 2 has been amicably settled and parties

have decided to bury the hatchet and live peacefully. The Petitioner has undertaken before us not to indulge in any such act in future;

(B) the Petitioner is young man, in his twenties and continuation of the prosecution will hamper his career;

(C) the Petitioner has shown repentance and has voluntarily made a statement that as a mark of repentance he will undertake any type of community service that may be ordered by this Court. The learned Counsel appearing for the Petitioner submitted that the Petitioner is willing to do cleaning, sweeping and mopping work at any Ashram / School as a community service.

5. In exercise of power under section 482 of the Code of Criminal Procedure, 1973, we are guided by the law laid down by the Apex Court in Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], and Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] and in the present case we find that no purpose would be served by keeping the subject FIR alive except ultimately burdening the criminal Courts which are already overburdened as the parties have decided to put an end to all acrimonies. We are of the view that in the backdrop of the fact-situation, the continuation of prosecution of the Petitioner in the subject FIR will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the FIR in order to secure the ends of justice. In the light of principles laid down by the

Apex Court in the aforesaid decisions, we are of the considered view that there is no impediment in quashing the subject FIR. In the result, petition is made absolute in terms of prayer clause (a), subject to following conditions :

- I] the Petitioner shall render community service on every Sunday during 9.00 a.m. to 5.00 p.m. for the period of three months at Padmavati Balak Ashram situated at Mohol. The community services to be rendered by the Petitioner include cleaning, sweeping, mopping etc., of the Ashram premises / area.
- II] the Petitioner shall report to the Head of the said Ashram with a copy of this order. The Investigating Officer shall also forward a copy of this order to the Head of the said Ashram as well as to the Senior Inspector of police within whose jurisdiction the aforesaid Ashram falls.
- III] the head of the said Ashram shall allocate appropriate work/ services to the Petitioner, which will be performed/rendered by the Petitioner as part of community service, such as cleaning, sweeping and mopping of the Ashram premises / area.
- IV] the Petitioner shall obtain certificate from the Head of the said Ashram of having rendered community service satisfactorily for the period of three months and place the same on the record of this petition.
- V] the Senior Inspector of police of Vijapur Naka Police Station, Solapur shall also verify whether the Petitioner has rendered community service at the said Ashram and place report to that effect on the file of this Court.
- VI] the Petitioner shall pay cost of Rs.10,000/- to Kirtikar Law Library within two weeks from today and produce the receipt thereof on the record of this Court.

6. The quashment of FIR is granted subject to the Petitioner producing certificate from the Head of Padmavati Balak Ashram, Mohol and placing the same on the record of this Court within four months from today. Failing to do so, the order quashing FIR shall stand recalled automatically and petition shall stand dismissed without further reference to the Court and order quashing FIR shall be treated as non-est. For compliance of the above, place Writ Petition on board on 1st November 2017.

7. Writ petition stands disposed of.

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]