

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO. 4599 OF 2015**

Anil C. Shah and Another. ..Petitioners.

**Versus**

State of Maharashtra & Another. ..Respondents.

Mr. R. V. Gupta for the Petitioner.  
Mr. K. U. Saste, APP for the State.  
Mr. Aproov Srivastav for Respondent No. 2.

Coram : Ranjit More &  
Dr. Shalini Phansalkar-Joshi, JJ.  
Date : **November 30, 2017.**

**P. C. :**

1. On oral motion, leave to amend prayer clause is granted. Necessary amendments be carried out forthwith.
2. Heard the learned Counsel for the Petitioner, the learned APP for the State and the learned Counsel for Respondent No. 2. The petition is filed for quashing and setting aside the proceedings of criminal case bearing CC. No. 1962/PW/15 pending on the file of learned Metropolitan Magistrate, 26<sup>th</sup> Court, Borivali. The said case has arisen from the registration of CR. No. 16 of 2015 with Dahisar Police Station for the offence punishable under sections 452, 324, 504, 506, 427, 141, 148, 143, 147, 120B read with section 34 of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No.2 and in all eight persons are arrayed as accused and

the present Petitioners are accused No. 7 and 8.

3. The learned Counsel appearing for the respective parties submitted that pending trial of the aforesaid proceedings, at the intervention of well-wishers and friends parties have amicably settled their disputes and differences and in terms of the understanding arrived at between them, the Petitioners have approached this Court by way of present writ petition for quashing the subject proceedings by consent.

4. Respondent No. 2 has filed affidavit dated 30<sup>th</sup> November 2017. In paragraph 4 he has given no objection to quash the proceedings of the subject criminal case not only against the Petitioners herein but as against all the accused persons. 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 subject criminal proceedings initiated by him not only against the present petitioners but also against the other accused persons.

5. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of FIR, 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 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 criminal proceedings. **Accordingly, petition is made absolute in terms of prayer clause (a).** In the fact-situation, we find it would be appropriate to saddle the Petitioners with the cost of Rs.50,000/-, 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 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*.

**[Dr. Shalini Phansalkar-Joshi, J.]**

**[RANJIT MORE, J.]**