

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1770 OF 2018

Nilam
Santosh
Kamble

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by Nilam Santosh
Kamble
Date: 2018.08.29
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Shri.Sunil Anil Kunchikorve

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr.Y.G. Thorat i/b Mr.S.B. Thorat for the Petitioner.

Mrs.P.P. Shinde, APP for the Respondent-State.

Mr.Fauzan Shaikh for Respondent No.3.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 27th AUGUST 2018

P.C.

1. Heard learned counsel and learned APP appearing for the respective parties.

2. The petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Code of Criminal Procedure, 1973, for quashing the proceedings of Regular Criminal Case No.728 of 2015 registered with Metropolitan Magistrate, 12th Court, Bandra, Mumbai. The said case arises out of registration of C.R. bearing No.199 of 2015 at the instance of

respondent No.3 with Shahunagar Police Station, Mumbai for offences punishable under Sections 324 and 504 of the Indian Penal Code.

3. Pending trial, the parties to the petition settled their dispute amicably with intervention of the community and thereafter have approached to this Court for quashing the proceedings of the subject criminal case by consent. The Respondent No.3 has filed an affidavit dated 26.04.2018. In paragraph 7 of the affidavit the respondent No.3 has stated that the FIR registered against the petitioner with Shahunagar Police Station as well as the criminal proceedings bearing RCC No.728 of 2015 pending before the learned Metropolitan Magistrate, 12th Court, Bandra, Mumbai may be quashed.

The Respondent No.3 who is personally present before this Court has categorically made statement before us that he has signed the affidavit after the contents were read over to him and which he has understood. He categorically stated that he has no objection for quashing of the proceedings of the subject criminal case. He also categorically makes a statement that he is according his consent for out of his free will and there is no coercion or any pressure imposed on him.

4. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana AIR 2003 SC 1386,** we are of the view that quashing of the FIR would be in the interest of respondent No.2. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject FIR is required to be quashed. The application is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

5. Accordingly, the Writ Petition is allowed. Rule is made absolute in terms of prayer clause (A) subject to payment of costs of Rs.10,000/- by the petitioners to the “Tata Memorial Hospital”. The petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a period of two weeks from today, failing which, the aforesaid order allowing the Writ Petition would automatically stand recalled.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)