

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.515 of 2018

Abdul Kadar Nawab Qureshi
and others .. Applicants
Versus
The State of Maharashtra & Anr .. Respondents

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Mr.S.R.Gaud for the applicants.
Mr.Deepak Thakare, PP with Mr.K.V. Saste, APP for the State.
Mr.Mukesh Badsawal for respondent no.2.

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

DATED : 19th SEPTEMBER 2018

P.C:-

1 Heard learned counsel for the applicants,
respondent no.2 and the learned APP.

2 The petition is filed for quashing and setting aside
the FIR in respect of C.R.No. 67 of 2009 registered under
Section 324 r/w Section 34 of the Indian Penal Code at
Nagpada Police Station, Mazgaon (Sewri), Mumbai upon
respondent no.2's complaint against the applicants.

3 The learned counsel appearing for the respective parties submitted that during the pendency of investigation, 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 Petition is filed for quashing the above FIR dated 21st August 2018, by consent of respondents.

4 The respondent no.2 is personally present in Court. He has filed his affidavit dated 25th April 2018. In paragraph no.5, he has given No objection for allowing this application preferred by all the above named applicants, thereby seeking prayer of quashing of C.C.No. 421/PW/2010 arising out of its C.R.No.67 of 2009 registered with Nagpada Police Station at his instance for an offence punishable under Section 324 of the IPC r/w Section 34 of the IPC.

5 The Hon'ble Apex Court in case of ***Narinder Singh Vs. State of Punjab***,¹ has held that even if the offences which are not compoundable, the High Court is empowered in exercise of its power under Section 482 of the Code to accept the compromise between the parties and quash the proceedings, if it serves the ends of justice. The Hon'ble Apex Court observed thus :

1 (2014) AIR SCW 2065

“24 The two rival parties have amicably settled the disputes between themselves and buried the hatchet. Not only this, they say that since they are neighbors, they want to live like good neighbors and that was the reason for restoring friendly ties. In such a scenario, should the Court give its imprimatur to such a settlement? The answer depends on various incidental aspects which need serious discourse. The legislators have categorically recognized that those offences which are covered by the provisions of Section 320 of the Code are concededly those which not only do not fall within the category of heinous crimes but also which are personal between the parties. Therefore, this provision recognizes where there is a compromise between the parties, the Court is to act at the said compromise and quash the proceedings. However, even in respect of such offences not covered within the four corners of Section 320 of the Code, the High Court is given power under Section 482 of the Code to accept the compromise between the parties and quash the proceedings. The guiding factor is as to whether the ends of justice would justify such exercise of power, both the ultimate consequences may be acquittal or dismissal of indictment. This is so recognized in various judgments taken note of above”

In light of the aforesaid legal position and in the backdrop of the fact that the crime in question has been settled between the parties and the offence being personal in nature, we are inclined to allow the writ petition.

6 Writ Petition is allowed in terms of prayer clause (b).

7 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 petitioner with costs of Rs.15,000/- 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 petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a 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 shall be treated as *non-est*.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

Manali
Prasanna
Tilak

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Prasanna Tilak
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