

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2452 OF 2018

Kayum Tamboli and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. P. H. Jaggi for the Petitioner.

Mr. Deepak Thakare with Ms. S. R.Shinde, APP for the Respondent-State.

Mr. A. M. Sarogi for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **August 28, 2018.**

P. C. :

1. Heard the learned counsel appearing on behalf of the Petitioners, learned APP for the Respondent-State and the learned counsel for Respondent No. 2.

2. The petition is filed under Article 226 of the Constitution of India seeking to quash and set aside the proceedings of criminal case bearing CC. No. 2/B of 2013 pending on the file of learned Metropolitan Magistrate, 21st Court, Bandra. The said case is an offshoot of FIR bearing CR No.119 of 2013 registered with Vakola Police Station, Mumbai at the instance of Respondent No.2 for the offence punishable under sections 354, 504, 506(2) and 452 read with 34 of the Indian Penal Code, 1860.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, 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 criminal proceedings, by consent of Respondent No. 2.

4. Respondent No. 2 has filed an affidavit dated 30th July 2018. In paragraph no.2 of the said affidavit, she has given no objection for quashing the subject criminal proceedings.

5. 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 subject criminal proceedings initiated by her against the the Petitioner.

6. 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.

7. 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, petition is made absolute in terms of prayer clause (a). In the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioners with the cost of Rs.10,000/-, 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 six 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*. Registry will then intimate the concerned Police Station / Magistrate that subject

proceedings shall not be treated to have been quashed and that police / Magistrate shall proceed against the Petitioners in accordance with law.

8. Writ petition stands disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]