

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 832 OF 2018

Venkatesh Kashappa Gunni. ..Applicant.
Versus
State of Maharashtra & Another. ..Respondents.

Ms. Mallika A. Ingale for the Applicant.
Mr. F. R. Shaikh, APP for the Respondent-State.
Ms. Sayyed Tabassum Achhan for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **September 11, 2018.**

P. C. :

1. Heard the learned counsel for the Applicant, learned APP for the Respondent-State and the learned counsel for Respondent No. 2. By this application filed under section 482 of the the Code of Criminal Procedure, 1908, the Applicant is seeking to quash FIR bearing CR No. 344 of 2018 registered with Goregaon Police Station at the instance of Respondent No. 2 for the offence punishable under sections 452, 454, 451, 380 and 448 of the Indian Penal Code, 1860.

2. Learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, 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 application is filed for quashing the above FIR, by consent of Respondent No. 2.

3. Respondent No. 2 has filed an affidavit dated 9th August 2018. In paragraph 4 of the said affidavit, he has stated that he has no objection for quashing of the subject FIR. 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 FIR registered at his instance against the Applicant.

4. 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 FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

5. 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 FIR. Accordingly, application is allowed in terms of prayer clause (i). In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicant with the cost of Rs.5,000/-, 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 Applicant 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, application 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 that subject FIR shall not be treated to have been quashed and that police / Magistrate shall proceed against the Applicant in accordance with law.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]