

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3174 OF 2018

Samsullah Chowdhary and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Pandit Kasar for the Petitioner.

Mr. F. R. Shaikh, APP for the Respondent-State.

Mr. S. P. Chavan for Respondent No. 2.

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

Date : **October 19, 2018.**

P. C. :

1. Heard learned counsel for the respective parties. The petition is filed seeking quashment of FIR bearing CR.No.304 of 2018 registered with Sakinaka Police Station at the instance of Respondent No.2 for the offence punishable under sections 324, 427, 504 read with 34 of the Indian Penal Code, 1860.

2. Learned counsel appearing for the respective parties submitted that pending investigation in the above FIR, with the help and intervention of elderly persons and friends, parties have amicably settled their disputes and in pursuant of understanding arrived at between them, parties have approached this Court for quashing the above FIR by consent of Respondent No. 2 and other aggrieved persons.

3. Respondent No. 2 (original complainant) as well as three aggrieved persons, namely, Faijan Mohd. Nasim, Mohammad Afzal @ Afson and Nasimdudin Shamiuddin have filed their individual affidavits in this Court wherein they have prayed for allowing the writ petition filed by the Petitioners and have further accorded their consent for quashing the FIR against the Petitioners.

4. Respondent No.2 as well as those three aggrieved persons are present before the Court. On specific query made by the Court, they submitted that they have made those affidavits at their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the subject FIR.

5. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that 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.

6. 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, petition is allowed 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.5,000/- each, 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*. 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 Petitioners in accordance with law.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]