

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.994 OF 2018

Rajesh Mimani and ors	.. Applicants
Versus	
The State of Maharashtra & Anr	.. Respondents

...

Mr. Vivek S. Babar for the applicants.
Mr. Deepak Thakare, PP with Mr.K.V. Saste, APP for the State.
Mr.Shivam P. Srivastav for respondent no.2.

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

DATED : 29th AUGUST, 2018

P.C:-

1 Heard learned counsel for the applicant and learned APP for the State.

2 Learned counsel for the applicant prays for quashing the FIR bearing C.R.No.233 of 2018 registered with Powai Police Station, Mumbai at the instance of respondent no.2 for an offence punishable under Section 420 r/w Section 34 of the IPC.

3 Pending investigation, parties have settled their dispute amicably and filed consent terms in this proceeding. Copy of which is annexed at Annexure-D at page 26 of the petition. In the consent terms, it is stated that the respondent no.2 has agreed for receiving an amount of Rs.6,50,000/- (Rupees Six Lakhs Fifty Thousand) as and by way of full and final settlement.

4 In terms of the consent terms, Learned counsel for the petitioner has handed over D.D.No.967591 dated 08/08/2018 in favour of “Aurk Vision” to the respondent no.2 who is present in the Court and he has acknowledged the receipt of the same.

5 Respondent no.2 has filed an affidavit dated 21st August 2018. In para-4 of the affidavit, he has given No Objection to quash the proceedings of the subject FIR.

6 The Hon'ble Apex Court in the case of ***Narinder Singh vs. State of Punjab***¹ has observed thus :-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceedings

1 [2014 AIRSCW 2065]

having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute between buried the hatchet, and since the complainant has been adequately compensated by the applicant and has also received the entire compensation, we are of the opinion that the FIR is liable to be quashed.

7 In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in

the case of *Narinder Singh* (supra), we find that 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 criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

8 Accordingly, the writ petition is allowed in terms of prayer clause (a) subject to payment of costs of Rs.10,000/- by the petitioners to the “Tata Memorial Hospital” an institution that takes care of the advanced and terminally ill cancer patients. The petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the aforesaid order allowing the Writ Petition would automatically stand recalled.

9 At this stage, the learned counsel for the petitioner pointed out that applicant no.1 is in judicial custody in subject

FIR. Since we have quashed the entire proceedings of the subject FIR i.e. C.R.No.233 of 2018 registered with Powai Police Station, we direct the applicant no.1 be forthwith released, if not required in any other case.

10 Parties to act on an authenticated copy of this order.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

Manali
Prasanna
Tilak

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signed by
Manali
Prasanna Tilak
Date:
2018.08.29
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