

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4321 OF 2018

Sharnappa S. Bhandhari and Others. ..Petitioners.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. J. B. Mishra for the Petitioner.
Mr. Deepak Thakare, PP for the Respondent-State.
Mr. B. K. Manghani for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **October 25, 2018.**

P. C. :

1. Heard learned counsel appearing for the respective parties. The petition is filed seeking to quash and set aside the proceedings of criminal case pending on the file of learned Metropolitan Magistrate, 62nd Court, Dadar, Mumbai, being CC NO. 349/PW/2014. The said case has arisen out of an FIR bearing CR No.226 of 2013 registered with Worli Police Station, Mumbai at the instance of Respondent No.2 for the offence punishable under sections 324 and 323 read with 34 of the Indian Penal Code, 1860.

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

3. The original complainant–Respondent No.2 herein as well as the injured persons – Ruksana Arkate, Imran Arkate and Firoz Surve have filed a common affidavit dated 4th September 2018 wherein in paragraph 2 they have given no objection to quash the proceedings of subject criminal case.

4. Respondent No.2 as well as the injured persons are personally present before the Court. On specific query made by us, they submitted that they have made the said affidavit on 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 criminal proceedings against the Petitioners.

5. 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.

6. In the light of the 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 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 receipts thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipts 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*.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]