

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4650 OF 2018

Kishore T. Idnani.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Sapna Krishnappa for the Petitioner.

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

Ms. Beerta H. Bajwa I/b Lalla & Lalla 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 to quash and set aside the proceedings of criminal case bearing No.2974 of 2009 pending on the file of learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai. The said criminal case is an offshoot of FIR bearing CR.No.310 of 2006 registered with Versova Police Station, Mumbai at the instance of Respondent No.2 and against the Petitioner for the offence punishable under sections 406, 467, 468, 471, 420 and 506 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 and well-wishers, the parties

have amicably settled their differences by way of mutual settlement and entered into consent terms which came to be filed in SC Suit No. 4856 of 2007. They further submitted that in terms of the understanding arrived at between the parties, they have approached this Court for quashing the above criminal proceeding by consent of Respondent No. 2.

3. Respondent No.2 has accordingly filed an affidavit dated 12th October 2018 in this Court. In paragraph 2 of the said affidavit, she has given no objection to quash the subject criminal proceedings against the Petitioner. 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 against the Petitioner.

4. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of record, it transpires that the allegations made against the Petitioner 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.

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 criminal proceedings. Accordingly, petition is allowed in terms of prayer clause (a). As the police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Applicant the Petitioner 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 Petitioner 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 Magistrate that subject criminal proceedings shall not be treated to have been quashed and that police / Magistrate shall proceed against the Petitioner in accordance with law.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]