

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTON

CRIMINAL APPLICATION NO. 246 OF 2019

Kamlesh Rai & Another. ..Applicants.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Chetan Akerkar for the Applicant.
Mr. F. R. Shaikh, APP for the Respondent-State.
Mr. Fanibanda A. P. for Respondent No. 2.

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

Date : **March 27, 2019.**

P. C. :

1. Heard the learned counsel for the respective parties. This is application filed under section 482 of the Code of Criminal Procedure, 1973 seeking to quash and set aside FIR bearing CR. No. 19 of 2019 registered with MIDC Police Station at the instance of Respondent No.2 for the offence punishable under sections 452, 323, 504 read with 34 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that pending investigation, with the help and intervention of 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 22nd February 2019. In paragraphs 2 and 3 of the said affidavit, she has stated that the dispute between the parties is settled and therefore she has no objection to quash the subject FIR. 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 FIR initiated by her against the Applicants.

4. 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 FIR. Accordingly, application 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 Applicants 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 Applicants 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*.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]