

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1275 OF 2019

Laika Patel @ Saleha Fakhi. ..Petitioner.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. P. S. Manjrekar I/b K. P. Davi for the Petitioner.
Mr. K. V. Saste, APP for the Respondent-State.
Mr. Kunal A. Ambulkar for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **March 20, 2019.**

P. C. :

1. Heard the learned counsel for the respective parties. By this petition, filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the Petitioner is seeking to quash the proceedings of criminal case bearing No.236 of 2016 pending on the file of learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai. The said proceeding has arisen from an FIR registered with Cuffe Parade Police Station, Mumbai, being CR.No. 84 of 2014, for the offence punishable under sections 409 and 420 of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No. 2.
2. The learned counsel for the respective parties submitted that during trial, the parties have settled their disputes amicably and

have approached this Court for quashing the subject criminal case by consent of Respondent No.2. Respondent No. 2 has accordingly filed an affidavit dated 19th March 2019. In paragraph 5, the Petitioner offered to settle the dispute by paying an amount of Rs.8 lakh to Respondent No.2, which offer is accepted by Respondent No.2. Out of this amount of Rs. 8 lakh, an amount of Rs.1 lakh is paid to Respondent No.2 today by way of a demand draft and the balance amount of Rs.7 lakh is already deposited by the Petitioner in this Court pursuant to the order dated 10th September 2015 passed in Criminal Bail Application No.1439 of 2015. In paragraph 6 of his affidavit, Respondent No.2 has states that he does not wish to pursue the subject criminal proceedings against the Petitioner and and has given his no objection for quashing the subject criminal proceeding against the petitioner.

3. Respondent No.2 is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the subject FIR /criminal proceedings initiated by him against the Petitioner.

4. 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.

5. 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, the petition is made absolute in terms of prayer clause (b).** In the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioner with the cost of Rs.10,000/-, which shall be paid to **“Yashodhan Charitable Trust”, Satara** [having Registration No. 1895/Satara, Maharashtra], an institution that takes care of the mentally retarded and elderly people in the downtrodden society. For the quashment to take effect, the 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*.

6. Respondent No. 2 is permitted to withdraw the amount of Rs. 7 lakh deposited by the Petitioner in Criminal Bail Application No. 1439 of 2015.

7. The Petitioner has surrendered her passport to the Cuffe Parade Police Station. Since we have quashed the proceedings of subject criminal case, Cuffe Parade police Station is directed to return the passport to the Petitioner.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]