

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTON

WRIT PETITION NO. 1289 OF 2019

Salman Koltarkar and Another. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. J. B. Mishra for the Petitioner.

Mr. K. V. Saste, APP for the Respondent-State.

Mr. A. R. Mishra for Respondent No. 2.

Coram : RANJIT MORE &

SMT. BHARATI H. DANGRE, JJ.

Date : April 2, 2019.

P. C. :

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No. 1 and learned APP for the Respondent-State. 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 have sought to quash the proceedings of criminal case bearing CC. No. 2900641/PW/2018 pending on the file of learned Metropolitan Magistrate, 29th Court, Bhoiwada, Mumbai. The said case has arisen out of registration of FIR bearing CR.No. 127 of 2017 with Wadala Police Station for the offence punishable under sections 326 and 324 read with 34 of the Indian Penal Code,

1860. The FIR was registered at the instance of Respondent No. 2.

2. It is to be noted that charge-sheet is filed only in relation to the offence punishable under section 324 of IPC as the allegations for the offence punishable under section 326 of IPC did not materialise.

3. Pending trial of above case, parties settled their disputes amicably and approached this Court for quashing the above criminal case by consent. Respondent No.2 as well two injured eye-witnesses, namely, Didar Ahmed Ikarar Ansari and Mohammed Abrar Gani Khan have filed affidavits, wherein they have stated that they have no objection to quash the proceedings of subject criminal case against the Petitioners.

4. Respondent No.2 as well as injured persons are personally present before the Court. On specific query made by us, they submitted that they have made the said affidavits 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 FIR /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, we make the writ petition absolute 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.10,000/- each [Rs. Ten thousand 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.]