

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTON

CRIMINAL APPLICATION NO. 294 OF 2019

Dnyaneshwar @ Dnyanoba B. Wakle
and another.

..Applicants.

Versus

State of Maharashtra & Another.

..Respondents.

Mr.S.S.Karmarkar i/b Karmakar & Associates for the Applicants.

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

Mr. Subhash R. Samukhrao for Respondent No. 2.

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

Date : **June 17, 2019.**

P. C. :

1. Heard the learned counsel for the Applicants, the learned counsel for Respondent No.2 and the learned APP for the Respondent-State.

2. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants seek to quash and set aside FIR bearing CR.No.739 of 2018 registered with Goregaon Police Station at the instance Respondent No.2 for the offence punishable under sections 420, 406, 504, 506 and 120B read with 34 of the Indian Penal Code, 1860.

3. It is alleged that Respondent No.2 booked a flat with Applicant No.2 and made payment of Rs.30 lakh. The

Applicants, however, did not give possession of the flat and instead used the said amount for their personal purposes. The Applicants therefore filed subject FIR.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, the parties with the help of friends and well-wishers have amicably settled their disputes and came to the settlement. They further submitted that the Applicants have accordingly paid an amount of Rs.30 lakh to Respondent No.2 and pursuant to the understanding arrived at between them, present application is filed for quashing the above FIR by consent of Respondent No.2.

5. Respondent No.2 has accordingly filed an affidavit dated 22nd February 2019 before this Court wherein, in paragraph 6 she has given no objection to quash the subject FIR against the Applicants.

6. 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.

7. 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 and they are predominantly of civil 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 FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

8. 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.20,000/- 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 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, 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.]