

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 381 OF 2018

Shoeb Ahmed Devalaiwala

.. Applicant

Vs.

1. State of Maharashtra
(through Byculla Police Station)
& Anr.

.. Respondents

Mr.Satyaram R. Gaud for applicant.

Mr.A.D. Kamkhedkar, APP for respondent No.1-State.

Mr.Yogendra More for respondent No.2.

**CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.**

DATE : 9TH OCTOBER 2019

P.C.

1. Heard the learned counsel for the applicant, the learned APP for the respondent No.1 and the learned counsel for the respondent No.2.

2. The application is filed for quashing and setting aside the proceedings of criminal proceedings bearing C.C. No.189/PW/2015 pending before 6th Court of the Learned Metropolitan Magistrate, Mazgaon (Sewri), Mumbai. The said proceedings arises out of the registration of the FIR bearing C.R. No. 208 of 2014, at the instance

of the respondent No.2, for the offences punishable under sections 324, 323 read with section 34 of the Indian Penal Code.

3. Pending trial, the parties have settled their dispute amicably and they have approached this Court for quashing the proceedings of the criminal case, by consent.

4. The respondent No.2 has filed affidavit dated 9th August 2018 and in paragraphs 4 and 5 she has stated about no objection for quashing and setting aside the subject criminal case.

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. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of *Narinder Singh vs. State of Punjab*¹, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

6. Accordingly, the application is allowed in terms of prayer clauses (b) & (c). However, at the same time, costs need to be saddled

1 2014 AIR SCW 2065

on the applicant for using the police and judicial machinery for settling their personal disputes. In view of this, the applicant to pay a sum of Rs.10,000/- as costs. This amount of Rs.10,000/- to be paid to “Tata Memorial Hospital”, an institution that takes care of the patients suffering from cancer at advanced stage and/or terminally ill due to cancer. For the quashment to take effect, the applicant shall pay the said costs 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, the application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

7. Subject to above, the criminal application stands disposed of.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]