

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 406 OF 2019

Abdul Razak Chunawala and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Murhhar Khan I/b M. Rehman Chhapre for the Applicants.

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

Mr. Zaman Ali 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 Applicant, the learned counsel for Respondent No. 2 and learned APP for the Respondent-State. This is an application filed under section 482 of Code of Criminal Procedure, 1973 seeking to quash and set aside the FIR bearing CR. No. 93 of 2019 registered with Amboli Police Station, Mumbai for the offence punishable under section 420, 465, 468 and 471 and 406 read with 34 of the Indian Penal Code, 1860. The said FIR was registered at the instance of Respondent No. 2 herein.

2. The learned Counsel appearing for the respective parties submitted that during the investigation with the help and intervention of friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and entered into memorandum of understanding dated 26th March 2019 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 accordingly filed an affidavit dated 1st April 2019 wherein in paragraph 8 he has given no objection to quash the subject FIR against the Applicants. Along with his affidavit, Respondent No. 2 has placed on record copy of the memorandum of understanding entered into between himself and the Applicants. 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 initiated by him against the Applicants.

4. Applicant Nos.1 to 3 have filed a joint affidavit, wherein in paragraph 4, 5 and 6, they have taken the responsibility of repayment of entire loan amount to State Bank of India taken on the subject flat. The said affidavit is taken on record.

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 FIR alive 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 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.50,000/- each [Rupees Fifty thousand only each], which shall be paid to **“Anandwan” Warora**, [payable in favour of **“MAHAROGI SEWA SAMITI”**], a non governmental organization espousing the cause of socially disadvantaged people by enhancing their livelihood capabilities through self-discovery and empowering them to contribute to the society. 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.]