

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

CRIMINAL APPLICATION NO.419 OF 2019

Varinder Singh Bharara @ Balli

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Amin Solkar i/by. Misbaah Solkar for Applicant.

Mrs. A.S. Pai, APP for Respondent - State.

Mr Maaz Ansari for Respondent No. 2

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 25th JULY 2019.

P.C.

1. Mr. Solkar learned counsel appearing for the applicant, at the outset seeks leave to amend the prayer clause of the application so as to give particulars of the Criminal Case. Leave granted. Necessary amendment shall be carried out forthwith.

2. Heard Mr. Solkar learned counsel appearing for the applicant and Mr. Ansari learned counsel appearing for respondent No. 2 and Mrs. A.S. Pai learned APP appearing for the respondent No.1 - State.

3. The application is filed for quashing and setting aside the criminal proceedings that the Criminal Case bearing No. 2408/PW/2011 on the file of Additional Chief Metropolitan Magistrate Court at Boriwali,

Mumbai. Said case arises out of registration of M.E.C.R No. 2 of 2010 dated 06.05.2010 registered with Malad Police Station for the offences punishable under Sections 406, 420, 323, 384, 451, 504, 506 and 34 of the Indian Penal Code registered at the instance of the respondent No. 2

4. During the pendency of the investigation parties settled their dispute amicably and in pursuant of the settlement arrived between them, have approached this Court for quashing the subject FIR by consent of Respondent No. 2.

5. The respondent No.2 has filed an affidavit dated 23.07.2019. In para 6 he has given no objection to quash the subject FIR. The respondent No.2 is personally present in Court and on specific query he made a statement that he has gone through the application and affidavit and understood the contents thereof. He specifically state that he has no objection to quash the subject proceedings and FIR against the present applicant.

6. The Hon'ble Apex Court in the case of ***Narinder Singh vs. State of Punjab***¹ has observed thus :-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the

1 [2014 AIRSCW 2065]

following guidelines :

“Where the High Court quashes a criminal proceedings having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute between them and no gainful purpose would be achieved in continuing the prosecution.

7. In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh** (supra), we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceeding is required to be quashed. However, at the

same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

8. Resultantly we quash the Criminal Case bearing No. 2408/PW/2011 on the file of Additional Chief Metropolitan Magistrate Court at Boriwali, Mumbai so also the M.E.C.R No. 2 of 2010 dated 06.05.2010 registered with Malad Police Station for the offences punishable under Sections 406, 420, 323, 384, 451, 504, 506 and 34 of the Indian Penal Code.

9. Accordingly, Writ Petition is allowed in terms of prayer **clause '(a)'**.

10. In the facts and circumstances of the case, we find it would be appropriate to saddle the applicant with the cost of Rs. 20,000/-, 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 applicant 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, plication shall stand dismissed automatically without further reference to the Court and order quashing the proceedings shall be treated as *non-est*.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)