

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.441 OF 2019

Jammy Asmad Malbari & Ors. .. Applicants
Versus
The State of Maharashtra & Anr. .. Respondents

Mr. G.T.Kanchanpurkar for applicants
Ms. A.S.Pai, APP for State
Mr. Deepak Yadav, respondent No.2 present in person.

CORAM : RANJIT MORE &
SMT. BHARATI HARISH DANGARE, JJ.

DATE : 9th APRIL 2019.

P.C.

Heard the learned Counsel for applicant, respondent No.2 and learned APP for State. The present application is filed for quashing and setting aside the F.I.R. No.C.R. I-48 of 2019 registered with Manor police station for offences punishable under section 143, 323, 504 and 507 of Indian Penal Code.

2] The learned Counsel appearing for the respective parties submitted that during the pendency of investigation / criminal proceedings, with the help and intervention of family members,

friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present application is filed for quashing the above FIR I-48 of 2019, by consent of Respondent No.2 .

3] Respondent No. 2 has filed an affidavit dated 8th April 2019. 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 Applicant.

4] 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 /..... criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

5] 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.

6] Accordingly, the application is allowed in terms of prayer clause (b).

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

(SMT. BHARATI H. DANGRE, J)

(RANJIT MORE, J)