

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1780 of 2018

Antony Punnackal Joseph and 2 ors.	Petitioners
versus	
The State of Maharashtra and 2 ors.	Respondents

Mr. Purushottam G. Chavan, advocate for the petitioners.
Mr. Deepak Thakare, PP along with Ms. Sangeeta D. Shinde, APP for the State.
Ms. Manisha Deokar I/b. Mr. Prashant Patil, advocate for respondent Nos. 2 and 3.

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

DATE : 29th MARCH, 2019.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The petition is filed for quashing and setting aside the FIR bearing C.R. No.422 of 2015 with Powai Police Station, at the instance of the respondent No.2 against the petitioners for the offences punishable under Sections 420, 504 and 506 read with Section 34 of the Indian Penal Code, 1860.

3. During pendency of the investigation, the parties settled their dispute amicably and have, accordingly, executed consent terms dated

28th November, 2017 and in pursuance of an understanding arrived at between the parties, they have now approached this Court for quashing the subject FIR by consent. The said consent terms is taken on record and marked "X". The consent terms are signed by all the parties. Paragraphs 27 and 28 of the said consent terms reads as follows :

"(27) These Consent Terms records the final terms and condition of the compromise and settlement between Petitioner & Respondent No.4 and 5 on the one hand and Respondent No.2 & 3 on the other hand and these consent terms supersedes and override all other memoranda, paper and writing or understanding entered into between the parties hereto or executed by them.

(28) In view of the aforesaid on receiving the payment of Rs.25,00,000/- (Twenty Five Lakhs Only) the Respondent No.2 & 3 irrevocably withdraw their complaints, allegation and claim made against the Petitioner and Respondent No.4 & 5 and the Respondent No.2 and 3 hereby undertake with this Hon'ble High Court that Respondent No.2 & 3 return all the documents and papers, receipts, confirmation letter, cheques etc. to the Petitioner & Respondent No.4."

Along with the consent terms, a copy of the demand draft dated 20th November, 2017, for an amount of Rs.25,00,000/- payable to respondent No.3 is annexed. However, the date of this demand draft

has expired and, therefore, the petitioners have prepared a new demand draft dated 7th March, 2019 for an amount of Rs.25,00,000/-, a copy of which is also placed on record. Respondent Nos.2 and 3 who are personally present before the Court, make a statement that this demand draft is received by them. Respondent No.2 has also filed a separate affidavit dated 29th March, 2019. In paragraph 5 thereof, she has given her no objection for quashing the subject FIR. Upon questioning respondent Nos.2 and 3 who are present before the Court, they specifically stated that they have gone through the petition, consent terms and the affidavit as well and has fully understood the contents thereof. They further confirmed that they have given no objection for quashing the subject FIR on their own free will and without there being any pressure or coercion.

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. 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 [2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the FIR pending except burdening the Criminal Courts which are already overburdened. However, at the same time, costs need to be saddled on the parties for

using the police and judicial mechanism for settling their personal disputes.

6. Accordingly, the writ petition is allowed in terms of prayer clause (A) subject to payment of costs of Rs.10,000/- by the petitioners to **“Tata Memorial Hospital”** an institution that takes care of advanced and terminally ill cancer patients and, thereafter, produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the writ petition shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as non-est.

7. Subject to above, the writ petition is disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]