

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICITON

WRIT PETITION NO. 2238 OF 2019

Swaran Nadan Salaria.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Ms. Sushama Yadav for the Petitioner.

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

Mr. A R. Maurya I/b ARM Legal for Respondent No. 3.

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

Date : **April 24, 2019.**

P. C. :

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No.3 and the learned APP for Respondent-State.

2. The petition is filed for quashing and setting aside the proceedings of criminal case bearing CC. No.1/NC/2015 pending on the file of learned Metropolitan Magistrate, 71st Court, Bandra. The said case has arisen from the registration of FIR bearing No.636 of 2014 registered with Vakola Police Station, Mumbai. The said FIR is registered at the instance of Respondent No.3, wherein the allegations levelled against the Petitioner are with regard to the commission of offence punishable under sections 376, 420 and 506 of the Indian Penal Code, 1860 as well as sections 3(1)(12), 3(2)(5), 3(1)(w)(i) of the

SC & ST (Prevention of Atrocities) Act, 1989. However, after investigation, the charge-sheet is filed only with regard to commission of the offence punishable under section 506 of IPC.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No.3. Respondent No.3 has accordingly filed an affidavit dated 16th April 2019. In paragraph 5 of the said affidavit, she has given her no objection to quash the said criminal proceedings.

4. Respondent No.3 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the subject criminal proceedings initiated by her against the Petitioner.

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 criminal proceedings pending 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 criminal proceedings. In that view of the matter, writ petition is made absolute in terms of prayer clause (a). In the facts and circumstances of the case, we find it would be appropriate to saddle Petitioner with the cost of Rs.10,000/-, which shall be paid to **“Yashodhan Charitable Trust”, Satara** [having Registration No. 1895/Satara, Maharashtra], an institution that takes care of the mentally retarded and elderly people in the downtrodden society. For the quashment to take effect, the Petitioner 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 the proceedings/FIR shall be treated as *non-est*. [Yashodan Charitable Trust : Account No.: 60245873355 IFSC Code : MAHB0000305].

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]