

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.496 of 2019

Smt.Khatijabi Abdul Sattar Shaikh
and other .. Applicants
Versus
The State of Maharashtra & Anr .. Respondents

Mr. S.A. Shaikh for the applicants.
Mr. K.V. Saste, APP for the State.
Mr.M.S. Ansari for respondent no.2.

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

DATED : 31st JULY 2019

P.C:-

1 Heard learned counsel for the applicants, learned counsel for respondent no.2 and learned APP for the State.

2 Application is filed for quashing and setting aside the FIR bearing C.R.No.273 of 2018 registered at the instance of respondent no.2 with Wadala T.T. Police Station, Mumbai for the offence punishable under Section 323, 143, 145, 147, 149, 504 r/w Section 34 Indian Penal Code.

3 Pending investigation, parties have settled their dispute amicably and they have no objection for quashing the subject FIR by consent. Respondent no.2 has accordingly filed

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an affidavit dated 15th April 2019. In paragraph no.3, she has given no objection to quash the subject FIR out of free will and without there being any pressure or coercion. Respondent no.2 is personally present in the Court.

4 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 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.”

1 [2014 AIRSCW 2065]

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute between them and buried the hatchet, we are of the opinion that the FIR is liable to be quashed in exercise of our inherent powers to secure the ends of justice.

5 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 proceedings are 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.

6 Accordingly, Criminal Application is allowed and the subject FIR No.273 of 2018 is quashed and set aside subject to the following :-

- (i) The applicants shall pay costs of Rs.10,000/- to ***“Tata Memorial Hospital”*** an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the petitioners 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 stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as non-est.

Subject to the above, Criminal Application stands disposed of.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)