

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2215 OF 2018

Azharuddin M.A. Shaikh .. Petitioner
Versus
The State of Maharashtra & Anr .. Respondents

WITH

WRIT PETITION NO. 2257 OF 2018

Joseph Theopilus .. Petitioner
Versus
The State of Maharashtra & Anr .. Respondents

...

Mr. V.S.Charalwar i/b Shyama Parkar for the petitioner in WP 2215/18.

None for the petitioner in WP No.2257/18.

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

Mr.A.P. Singh for respondent no.2.

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

DATED : 13th MARCH, 2019

P.C:-

1 Heard learned counsel for the petitioner in WP 2215/18, learned counsel for respondent no.2 and the learned APP for the State.

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2 The petitioner has approached this Court for invoking jurisdiction under Article 226 of the Constitution of India to quash the proceedings of the Criminal Case bearing No. 1341/PW//17 pending on the file of learned Metropolitan Magistrate, 68th Court at Borivali, Mumbai. The said case arises out of the registration of the FIR bearing CR No.38 of 2017 at the instance of respondent no.2 with MHB Police Station at Mumbai for offences punishable under Sections 354, 506 II, 509 and 34 of the Indian Penal Code.

3 Pending trial as well as pending this petition, parties have settled their dispute amicably and in pursuance of the understanding arrived at between them.

4 Respondent no.2 accordingly has filed separate affidavit in the above petition. She has given no objection to quash the proceedings of the subject criminal case. Respondent no.2 is personally present in the Court. She also states that she is giving no objection for quashing the said FIR out of free will and without there being any pressure or coercion.

5 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

1 [2014 AIRSCW 2065]

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.”

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, and since the complainant has been adequately compensated by the petitioner and has also received the entire compensation, we are of the opinion that the FIR is liable to be quashed.

6 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.

7 Accordingly, the writ petitions are allowed in terms of prayer clause (b) subject to payment of costs of Rs.5,000/- each by the petitioners to the account of Tata Memorial Hospital within a period of four weeks from today. The petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the aforesaid order allowing the Writ Petitions would automatically stand recalled.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)