

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2823 of 2019

Fahimda K. Faruqui & ors .. Petitioners
Versus
The State of Maharashtra & ors .. Respondents

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Mr.Mubin Solkar I/b Amir Sopariwala for the petitioners.
Mr.K.V. Saste, APP for the State.
S. Ansari for respondent no..2.

CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.
DATED : 18th JUNE, 2019

P.C:-

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

2 Petition is filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting-aside the proceedings of C.C. No.1883/PW/2012 pending on the file of learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai. The said criminal case arises out of MECR No.3 of 2011 registered with Oshiwara Police Station, at the instance of respondent No.2 for offences punishable under Sections 420, 463, 464, 467, 468, 471, 474 read with Section 34 of the Indian Penal Code, 1860.

3 Pending trial of the said case, the parties settled their dispute amicably and accordingly, entered into compromise deed (Memorandum of Understanding) dated 30th May 2019. Copy of the Compromise Deed/ Memorandum of Understanding is annexed at Exhibit-I to the petition. The petitioner as well as respondent no.2 make a common statement that the terms and conditions in this Compromise Deed are already complied with by the respective parties.

4 In the light of above, parties have approached this Court for quashing the proceedings of the subject criminal case by consent. In paragraph 5 of the said Compromise Deed, he has given no objection for quashing the proceedings of the subject criminal case. Respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the contents of the application and affidavit and has understood the same. He further submitted that he has no objection if the proceedings of the subject criminal case are quashed and set-aside. He also stated that he is giving no objection for quashing the said proceedings 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 :-

1 [2014 AIRSCW 2065]

“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.”

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 applicant and has also received the entire compensation, 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.

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 proceedings of C.C. No.1883/PW/12 pending on the file of learned Magistrate, 65th Court, Andheri, Mumbai, registered with Oshiwara Police Station, Mumbai are quashed and set-aside subject to payment of costs of Rs.20,000/- by the petitioner to the “**Anandwan**” (payable in favour of “MAHAROGI SEWA SAMITI, WARORA”) an institution which espouses the cause of socially disadvantaged people by enhancing their livelihood capabilities through self discovery and empowering them to contribute to the Society. The petitioner shall pay the said cost and thereafter produce the receipt thereof on the file of this petition within a period of six weeks from today, failing which, the criminal application shall stand dismissed automatically without further reference to the Court.

8 Subject to above, the Writ Petition stands disposed of.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)