

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 656 OF 2019

Abdul Rashid Abdul Karim Shaikh
and Ors.

...Applicants

Vs.

The State of Maharashtra
And Ors.

...Respondents

Mr. Abdul Bari Ansari for the Applicants.
Ms. Sangita Shinde, APP for Respondent – State.
Mr. Vishal G. Salvi for Respondent No. 2.

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

DATE : 25th JUNE 2019

P.C.:

1. The learned counsel for the applicants at the outset seeks leave to amend the prayer clause and also to correct the C.R. Number. Leave is granted. Amendment to be carried out forthwith.

2. Heard the learned Counsel appearing for the Applicants, the learned Counsel appearing for the Respondent No. 2 and learned APP for the Respondent – State. Petition is filed for quashing and setting aside the FIR bearing CR No. 79/2019 registered with J.J. Marg Police Station, Mumbai for the offences punishable under Sections 324, 323 r/w 34 of the Indian Penal Code at the instance of Respondent No. 2.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation and with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present application is filed for quashing the above FIR by consent of Respondent No. 2.

4. Respondent No. 2 has filed an affidavit dated 17.06.2019. In paragraph nos. 4 and 5 of the said affidavit, Respondent No. 2 has stated that she has no objection to quash and set aside the subject FIR.

5. Respondent No. 2 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 FIR initiated by her against the Applicants.

6. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear 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 **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the FIR would be in the interest of respondent No.2.

Besides, 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, we quash and set aside FIR bearing CR No. 79/2019 registered with J.J. Marg Police Station, Mumbai for the offences punishable under Sections 324, 323 r/w 34 of the Indian Penal Code.

8. Accordingly, Criminal Application is allowed in terms of prayer **clause '(a)'**.

9. In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicants with the cost of Rs. 10,000/-, which shall be paid to “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicants 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*.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J)