

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.670 OF 2019

Soumil G. JoganiApplicant

Versus

State of Maharashtra & Anr.Respondents

Mr. G.P. Thote, Advocate for the Applicant.

Mrs. A.S. Pai, APP for the Respondent-State.

Mr. A.H. Panda i/b. Ashish Raghuvanshi, Advocate for Respondent No.2.

CORAM : RANJIT MORE & N.J. JAMADAR, JJ.

DATE : 22nd AUGUST, 2019.

P. C. :

1. Learned counsel for the applicant, at the outset, seeks leave to amend prayer clause (a) of the application, so as to give particulars of the criminal case. Since the amendment is necessitated by occurrence of events subsequent to the filing of the application, leave as prayed for, is granted. Necessary amendment to be carried out forthwith.

2. Heard learned counsel and learned APP appearing for the respective parties.

3. The application is filed for quashing and setting aside the Criminal Case No.201/PW/2019 pending on the file of learned Metropolitan Magistrate, 71st Court at Bandra, Mumbai. The said case arises out of registration of FIR bearing C.R.No.298 of 2018 registered

with BKC Police Station, Mumbai, at the instance of Respondent No.2 against the applicant for the offences punishable under Sections 408, 465, 467, 477A, 471 read with Section 34 of the Indian Penal Code, 1860.

4. Pending trial, the parties settled their dispute amicably and accordingly, filed consent terms dated 25th April, 2019 in Bail Application No.626 of 2018 before the Court of Sessions at Greater Mumbai, a copy of which is annexed at Page 32, Exhibit 'C'. We accept the undertaking given by the respective parties in the said consent terms.

5. In pursuance of an understanding arrived at between the parties, they have now approached this Court for quashing the proceedings of the subject criminal case by consent. The Respondent No.2 has, accordingly, filed a separate affidavit dated 22nd August, 2019, wherein he has reiterated whatever that has been stated hereinabove. In addition to this, in Paragraph 6 thereof, he has also given his no objection for quashing the proceedings of the subject criminal case. The applicant and Respondent No.2 are personally present before the Court. On being questioned, they specifically stated that they have gone through the application, affidavit as well as consent terms and have fully understood the contents thereof. The Respondent No.2 has further confirmed that he has given no objection for quashing the proceedings of the subject criminal case out of his own free will and without there being any pressure or coercion.

6. 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. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the proceedings of the subject criminal case pending except burdening the Criminal Courts which are already overburdened. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

7. Accordingly, the application is allowed in terms of prayer clause (a) subject to payment of costs of 50,000/- to be paid by the applicant to **“Tata Memorial Hospital”** an institution that takes care of advanced and terminally ill cancer patients and, thereafter, produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the application shall stand dismissed automatically without further reference to the Court and order quashing the criminal proceedings shall be treated as non-est.

8. Subject to above, the application is disposed off.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]