

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

CRIMINAL WRIT PETITION NO.3233 OF 2019

Mr.A Gunasekaran & Ors.

..Petitioners

V/s.

The State of Maharashtra & Anr.

.. Respondents

Mr.Jayant Gohil for the Petitioners.

Mr.Deepak Thakare, PP a/w Mr.K.V. Saste, APP for the Respondent-State.

Mr.Rajan Govindan Mudaliyar, Respondent No.2-present in person.

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

DATE : 05th JULY 2019

P.C.

1. The Criminal Writ Petition is filed by the petitioner seeking quashment of the FIR bearing No.T-170 of 2017 which came to be registered on a complaint filed by the respondent No.2 and the offence punishable under Sections 406, 420 read with 34 of the Indian Penal Code were invoked and applied against the present petitioners.

2. During the pendency of the investigation, the petitioners and the respondent No.2 have settled the dispute and

have approached this Court allowing compounding of the same by quashing the subject FIR. Accordingly, the respondent No.2 has filed an affidavit on 13.04.2019 wherein he has stated that on account of mediation with the close friends and known persons, dispute between the parties is settled and he received an amount of Rs.20,00,000/- as compensation from the petitioner No.1 for and on behalf of the petitioner Nos.2 and 3. Resultantly, he has no complaint or prejudice against any of them. In such circumstances, in paragraph No.6 of the affidavit, he has given no objection to quash the subject FIR and makes a categorical statement that the said affidavit is filed on his own free will, consent and full conscious, without any influence or coercion.

3. The respondent No.2 is personally present in the Court. After ascertaining his identity, we specifically inquired as to whether he affirms to the contents of the affidavit tendered by him in this Court on 13.04.2019, to which he responded in the positive manner.

4. 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 the Hon'ble Apex Court in the case of ***Narinder Singh vs. State of Punjab***¹ where it is 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 no gainful purpose would be achieved in continuing the prosecution.

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. In such circumstances, when the parties have settled their dispute amicably and the complainant do not intend to prosecute the proceedings which have been instituted by him in form of the subject FIR, we quash the subject FIR.

7. Accordingly, the writ petition is allowed in terms of prayer clause (a) subject to payment of costs of Rs.15,000/- by the

petitioners to **Tata Memorial Hospital, Mumbai**. 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 writ petition shall stand dismissed automatically without further reference to the Court.

8. Subject to above, the writ petition is disposed off.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)