

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO.3722 OF 2019**

Suhas Dwarkanath Kande

.....Petitioner

Versus

The State of Maharashtra & Anr.

.....Respondents

Mr. Nitesh Pradhan i/b. S.D. Khot, Advocate for the Petitioner.

Mr. A.D. Kamkhedkar, APP for the Respondent-State.

Mr. S.P. Kadam, Advocate for Respondent No.2

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

**DATE : 5<sup>th</sup> AUGUST, 2019.**

**P. C. :**

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

2. The petition is filed for quashing and setting aside the FIR bearing C.R.No.89 of 2019 registered with Upnagar Police Station, at the instance of Respondent No.2, for the offences punishable under Sections 452, 447, 427, 143, 147, 149, 504, 506 of the Indian Penal Code, 1860.

3. Learned counsel for the petitioner submitted that name of the petitioner was taken by the Respondent No.2 due to the misconception. He invited our attention to the application filed by the Respondent No.2 before the District and Sessions Court at Nashik at Page No.107. In this

application, the Respondent No.2 has stated that she has no complaint whatsoever against the present petitioner and she took his name because of the misunderstanding.

4. Be that as it may, we have gone through the FIR and we found that at the time of incident, the petitioner was not present at the scene of offence.

5. The Respondent No.2 has also filed separate affidavit dated 26.07.2019. In Paragraph 5 thereof, she has also given her no objection for quashing and setting aside the subject FIR qua him.

6. Mr. Kamkhedkar, learned APP has placed on record the report dated 31.07.2019 of Assistant Police Inspector, Upnagar Police Station. Learned APP submitted that the petitioner is an habitual offender, and therefore, the subject FIR may not be quashed even by consent. The list of the offences against the petitioner in the petition reveals that in most of the cases, the petitioner is either released on bail or anticipatory bail.

7. Mr. Pradhan, learned counsel for the petitioner also submitted that the petitioner is politically active and out of the political rivalries, this FIR is registered against him.

8. Be that as it may, when in the present complaint, the complainant herself has stated that the name of the petitioner is included

in the FIR out of misrepresentation and she has given her no objection for quashing the subject FIR, we have no other alternative but to quash and set aside the subject FIR. This is especially in the light of the nature of the offence alleged against the petitioner.

9. 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.

10. Accordingly, the petition is allowed in terms of prayer clause (a) subject to payment of cost of Rs.50,000/- by the petitioners 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 Court within a period of four weeks from today,

failing which, the petition shall stand dismissed automatically without further reference to the Court and the order quashing the FIR shall be treated as non-est.

11. Subject to above, the writ petition is disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]