

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3966 OF 2019

Adolf Edward Correa.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Y. M. Thakkar for the Petitioner.

Mr. F. R. shaikh, APP for the Respondent-State.

Mr. M. D. Mali for Respondent No. 2.

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

Date : **September 9, 2019.**

P. C. :

1. The petition is filed for quashing and setting aside the proceedings of criminal case bearing RCC.No.2864/PS/2016 pending on the file of learned Metropolitan Magistrate, 68th Court, Borivali. The said case has arisen from the registration of FIR bearing CR.No.292 of 2015 with MHB Colony Police Station, Mumbai at the instance of Respondent No.2 for the offences punishable under sections 279, 337 and 338 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present petition is filed for quashing the above criminal proceedings, by consent of

Respondent No.2.

3. Respondent No.2 has filed an affidavit dated 7th September 2015. In paragraph 5 of the said affidavit, Respondent No.2 has given consent to quash the subject proceeding against the Petitioner. 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 criminal proceedings initiated by her against the Petitioner.

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. There is no element of public law involved in the crime. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the subject criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

5. In the light of principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the

subject criminal proceedings. Accordingly, petition is allowed in terms of prayer clause (b). In the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioner with the cost of Rs.10,000/-, [Rs. Ten thousand only] which shall be paid to “*Yashodhan Charitable Trust*”, Satara [having Registration No. 1895/Satara, Maharashtra], an institution that takes care of the mentally retarded and elderly people in the downtrodden society. For the quashment to take effect, the Petitioner 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*. [Details of Yashodan Charitable Trust : Account No.: 60245873355 IFSC Code : MAHB0000305]

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]