

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

CRIMINAL APPLICATION NO. 1085 OF 2019

Bhavesh Bhavarlal Samlani	.. Applicant
Vs.	
1.The State of Maharashtra	
2. Phulwanti @ Fulwanti Futermal Rathod	.. Respondents

Ms.Archana V. Deshpande for applicant.

Mrs.S.R.Shinde, APP for respondent No.1-State.

Mr.S.R. Phanse a/w. Ms.Siddhi Bhosale, for respondent No.2.

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

DATE : 11TH SEPTEMBER 2019

P.C.

1. Heard the learned counsel for the applicant, the learned APP for respondent No.1-State and the learned counsel for the respondent No.2.

2. The application is filed for quashing and setting aside the First Information Report bearing C.R.No.119/2019, at the instance of the respondent No.2, registered with Dadar Police Station, Mumbai, for the offences punishable under sections 420, 406, 409 and 506 of the Indian Penal Code, 1860 (IPC).

3. The applicant is a grandson of the respondent No.2. The dispute between the parties came to be settled amicably with the intervention of

well-wishers and elderly persons in the family and accordingly the parties have entered into the consent term on 6th August 2019. The consent terms, signed by the applicant, respondent No.1 and their respective advocates, is taken on record and marked 'X' for identification.

4. In terms of the consent terms arrived at between the parties, they have approached this Court for quashing the subject FIR by consent. Accordingly the respondent No.2 has filed an affidavit dated 6th August 2019. Shri Phanse, the learned counsel for the respondent No.2 states that the said affidavit is affirmed in his presence. Shri Phanse further states that the respondent No.2 is 83 years old and due to ailment and being wheelchair-bound, she could not remain present in Court. However, the respondent No.2 has authorized her son, namely Shri Madan Futermal Rathod, by a power of attorney, to represent her in the Court. The power of attorney, dated 9th August 2019 is placed on record. The power of attorney holder Shri Madan Futermal Rathod is also present in Court and states that he is aware about the present case and subject crime. He further states that the dispute having been settled, the respondent No.2 has no objection to quash the subject FIR and he is giving no objection on behalf of the respondent No.2. The applicant and Shri Madan Futermal Rathod state that they will comply with the terms of the consent terms.

5. The statements made and the undertakings given in the consent terms are accepted as undertakings to this Court.

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***¹, we find that no purpose would be served by keeping the criminal proceedings 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).

8. The counsel for the applicant, at this stage, pointed out that during the pendency of the investigation of the subject crime, the Investigating Officer had freezed the locker No. 50 of the Central Bank, Dadar Branch, Mumbai, which is in the joint names of the applicant and the respondent No.2. The learned counsel for the applicant prays that since the subject FIR in the subject crime is quashed, the said Locker may be de-freezed.

9. In view of above, the concerned Investigating Officer is directed to de-freeze Locker No. 50 of the Central Bank, Dadar Branch, Mumbai within a period of one week from receipt of this order.

¹ 2014 AIR SCW 2065

10. At the same time, costs need to be saddled on the applicant for using the police and judicial machinery for settling their personal disputes. In view of this, the applicant to pay a sum of Rs.10,000/- as costs. This amount of Rs.10,000/- to be paid to “**Tata Memorial Hospital**”, an institution that takes care of the patients suffering from cancer at advance stage and/or terminally ill due to cancer. For the quashment to take effect, the applicant 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, application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

11. Subject to above, the criminal application stands disposed of.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]