

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

WRIT PETITION NO. 4186 of 2019

Sameer Vilaschandra DesaiPetitioner
versus
The State of Maharashtra and anr.Respondents

Mr. M. G. Shukla i/b. Dave and Co., advocates for the petitioner.

Mr. S. R. Shinde, APP for the State.

Ms. Smita Sawant, advocate for respondent No.2.

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

DATE : 20th AUGUST, 2019.

P. C. :

1. Mr. Shukla, learned counsel for the petitioner, at the outset, seeks leave to amend the petition so as to provide the details of the criminal case. Leave as prayed for, is granted. Necessary amendment be carried out forthwith.

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

3. The writ petition is filed for quashing and setting-aside the criminal proceedings No. S/0002821/2018 pending on the file of learned Metropolitan Magistrate, 26th Court at Borivali, Mumbai. The said case

arises out of registration of FIR bearing CR. No.216 of 2018 with Borivali Police Station, Mumbai, at the instance of respondent No.2, for the offences punishable under Sections 279 and 338 of the Indian Penal Code, 1860.

3. Pending trial, the parties to the petition settled their dispute amicably and, entered into compromise deed, a copy of which is annexed at Exhibit – C, page 41. In terms of this settlement, the petitioner agreed to pay to respondent No.2, an amount of Rs.2,00,000/- by way of full and final settlement of all the claims of respondent No.2. Out of this amount, an amount of Rs.1,00,000/- is already paid to the petitioner by demand draft on 14th August, 2019 and in respect of the balance amount, a demand draft for an amount of Rs.1,00,000/- is handed over to respondent No.2 today itself in the Court. In addition to this amount of Rs.2,00,000/-, respondent No.2 has also received an amount of Rs.1,50,000/- from the insurance company of the petitioner's vehicle.

4. In the light of the understanding arrived at between the parties, they have now approached this Court for quashing the proceedings of the subject criminal case by consent. Respondent No.2 has, accordingly, filed an affidavit dated 14th August, 2019, wherein he has reiterated whatever that has been stated hereinabove. In paragraph 4, he has

given his no objection for quashing the proceedings of the subject criminal case. Respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the petition, compromise deed and the affidavit as well and has fully understood the contents thereof. He further confirmed that he is giving no objection for quashing the proceedings of the subject criminal case on his own free will and without there being any pressure or coercion.

5.. 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 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.

6. Accordingly, the petition is allowed in terms of prayer clause (a) subject to payment of costs of Rs.10000/- by the petitioner to the **“Yashodhan Charitable Trust”** (having Registration No.1895/Satara, Maharashtra, Account No.60245873355 IFSC Code

MAHB000305) an institution that takes care of mentally retarded and elderly people in the downtrodden society. The petitioner 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 and the order quashing the criminal proceedings shall be treated as *non-est*.

7. Subject to above, the writ petition stands disposed of.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]