

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4096 OF 2018

Ankit Haren Gosalia.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Ms. Arti Bhior, Rishi Bhuta I/b Ms. Pravina A. thakker for the Petitioner.
Mr. Deepak Thakre, PP with Ms S D. Shinde, APP for the Respondent-
State.

Ms. K. R. Shah I/b Lena D. Sapra for Respondent No. 3.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **April 8, 2019.**

P. C. :

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No. 2 and learned APP for the Respondent-State.

2. The petition is filed for quashing and setting aside FIR bearing Cr. No. 16 of 2018 registered with Crime Branch, Mumbai. [Earlier it was CR. No.34 of 2018 with Pydhonie Police Station]. The allegation in the said FIR are with regard to the commission of the offence punishable under sections 409, 420 and 506 of the Indian Penal Code, 1860. It was registered at the instance of Respondent No.

3.

3. The learned Counsel appearing for the respective parties

submitted that pending investigation into the above FIR, with the help and intervention of friends and well-wishers, the parties 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 FIR, by consent of Respondent No. 3.

4. In the present writ petition, respondent No. 3 has filed an affidavit dated 18th March 2019. In paragraph 5 of the said affidavit, he has stated that he has received a sum of Rs.1,25,00,000/- by way of RTGS transfer. In paragraphs 7 and 8 of the affidavit, Respondent No. 3 has stated that he does not wish to proceed further against the Petitioner in the subject FIR.

5. Respondent No.3 is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the subject FIR initiated by him against the Petitioner.

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. 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 FIR alive pending except ultimately burdening the Criminal Courts which are already overburdened.

7. In the light of the 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 FIR. Accordingly, writ petition is allowed. The subject FIR is quashed and set aside. In the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioner with the cost of Rs.50,000/- [Rupees fifty thousand only], which shall be paid to **“Anandwan” Warora**, [payable in favour of “MAHAROGI SEWA SAMITI”], a non governmental organization espousing the cause of socially disadvantaged people by enhancing their livelihood capabilities through self-discovery and empowering them to contribute to the 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*.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]