

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTON

**CRIMINAL APPLICATION NO. 1241 OF 2016**

Uday P. Sawant. ..Applicant.  
Versus  
State of Maharashtra & Another. ..Respondents.

Mr. Vineet Randive for the Applicant.  
Mr. K. V Saste, APP for the Respondent-State.  
Mr. Suresh P. Patil for Respondent No. 2.

Coram : RANJIT MORE &  
SMT. BHARATI H. DANGRE, JJ.  
Date : **June 17, 2019.**

P. C. :

1. Heard the learned counsel for the Applicant, the learned counsel for Respondent No.2 and the learned APP for the Respondent-State.
2. By this application, the Applicant is seeking to quash the FIR bearing CR.No.405 of 2016 registered with Goregaon Police Station, Mumbai for the offence punishable under sections 409 and 420 read with 34 of the Indian Penal Code, 1860 and sections 3, 5 and 13 of the Maharashtra Ownership Flats Act, 1963. Though there are few other persons who are arraigned as accused in the subject FIR, they have not come up before the Court and the quashment is sought only against the Applicant.

3. Initially, the quashment of FIR was sought on merits. Subsequently, as the Applicant and Respondent No.2 arrived at settlement, they are seeking quashment by consent.

4. Respondent No.2 (the complainant) as well as other two aggrieved persons have filed affidavits dated 5<sup>th</sup> March 2019 wherein they have given their unequivocal consent to quash the subject FIR qua the present Applicant only.

5. On 13<sup>th</sup> June 2019, the above application appeared before this Court when we have passed detailed order noting the above facts. On that day, Respondent No.2 as well as other two aggrieved persons were present before the Court. On that day, we verified with them about the concession given by them to quash the subject FIR against the Applicant. On our query, Respondent No.2 as well as other two aggrieved persons have submitted that they have no objection to quash the subject FIR against the Applicant herein. Further on that day, the matter was adjourned to today's date in order to enable the learned APP to verify whether there are any other persons who are victims or aggrieved by the subject crime. Today, Mr. Saste, learned APP makes a statement that

except Respondent No.2 and said two aggrieved persons, there are no other victims or aggrieved persons of the subject crime.

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 and they are of civil 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 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, application is allowed in terms of prayer clause (a) and the subject FIR is quashed qua

the Applicant only. It is made clear that investigation in the subject FIR is quashed qua the Applicant only and insofar as other accused are concerned, the investigation shall be carried out against them and it be taken to its logical end.

8. In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicant with the cost of Rs.5,000/-, which shall be paid to “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. 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*.

**[SMT. BHARATI H. DANGRE, J.]**  
**MORE, J.]**

**[RANJIT**