

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICITON

CRIMINAL APPLICAITON NO. 1183 OF 2018

Laxmichand Gutka @ Shah and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Vanashree Bhoir I/b Reshma Apt for the Applicants.

Mr K. V. Saste, APP for the Respondent-State.

Mr. S. S. Karamarkar for Respondent No. 2.

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

Date : **April 24, 2019.**

P. C. :

1. At the outset, the learned counsel for the Applicant seeks leave to amend the application so as to give particulars of criminal proceedings. Since the amendment is necessitated by the happening of events subsequent to the filing of application, we grant leave to amend. Necessary amendment be carried out forthwith.

2. Heard the learned counsel for the Applicant, the learned counsel for Respondent No. 2 and learned APP for the Respondent-State. The application is filed for quashing and setting aside the proceedings of criminal case bearing CC No. 3232/PW/2018 pending on the file of learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali. The said case has arisen from the FIR bearing CR. No. 220 of 2017 registered with Malad Police Station, Mumbai at the

instance of Respondent No. 2 for the offence punishable under sections 406, 409, 420, 453, 465, 467, 468, 471, 34, 120B of the Indian Penal Code, 1860.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, 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 application is filed for quashing the above criminal proceedings, by consent of Respondent No. 2.

4. Respondent No. 2 has filed an affidavit dated 14th August 2018. In paragraphs 3 and 4 of the said affidavit, he has stated that he has no objection to quash and set aside the proceedings of the said criminal case. Respondent No.2 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 criminal proceedings initiated by him against the Applicants.

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. 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.

6. 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 criminal proceedings. Accordingly, application is allowed in terms of prayer clause (a).

7. In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicants with the cost of Rs.5,000/- each, 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 Applicants shall pay the said cost and produce the receipts thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and

produce receipts 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.]

[RANJIT MORE, J.]