

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5051 OF 2018

Amit Shyam Pendhari. ..Petitioner.

Versus

Subhash Linngu Ghume & Another. ..Respondents.

WITH

WRIT PETITION NO. 1209 OF 2019

Pravin Narayan Baikar and others. ..Petitioners.

Versus

Subhash Linngu Ghume & Another. ..Respondents.

Advocates in WP No. 5051 of 2018

Mr. V. V. Pethe for the Petitioner.

Mr. S. C. Wakankar for Respondent No. 1.

Mr. S. D. Shinde APP for the Respondent-State.

Advocates in WP No. 1209 of 2019

Mr. A. R. Gole for the Petitioner.

Mr. V. V. Pethe for Respondent No. 1.

Mr. S. D. Shinde APP for the Respondent-State.

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

Date : March 18, 2019.

P. C. :

1. The learned counsel for the Petitioners at the outset seek leave to amend the petitions so as to give particulars of the criminal proceeding. Leave granted. Necessary amendments be carried out forthwith.

2. The Petitioners in these petitions have approached this

Court seeking to quash and set aside the proceedings of RCC No. 32 of 2019 pending on the file of JMFC, Vasai. The said case is an offshoot of FIR bearing CR.No.I-640 of 2018 registered with Tulij Police Station, Palghar. The said FIR came to be registered at the instance of Respondent No.1 for the offence punishable under sections 448, 504, 406 and 120B read with 34 of the Indian Penal Code, 1860.

3. We have perused the said FIR. The allegations made in the FIR are that on 12th June 2018, the Petitioners herein have taken forcible possession of complainant's room. Subsequent to the filing of FIR, however, the dispute between the parties is settled. It is the case of the Petitioners that possession of the said room was taken under a mistake and when they realised that the said room belongs to the complainant, he was put into peaceful possession of the said room. In these facts, both the parties have approached this Court for quashing the said complaint by consent of original complainant-Respondent No. 2 herein.

4. Respondent No.2 has filed separate affidavits in these petitions giving no objections for quashing the proceedings of the subject criminal case.

5. Respondent No.1 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 Petitioners.

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 /..... criminal proceedings 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 criminal proceedings. Accordingly, petitions are allowed. Writ petition No. 5051 of 2018 is allowed in terms of prayer clause (b-1) and Writ Petition No. 1209 of 2019 is allowed in terms of prayer clause (a-1).

8. In the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioners with the cost of Rs.10,000/- each [Rs. Ten thousand each], which shall be paid to **“Yashodhan Charitable Trust”, Satara** [having Registration No. 1895/Satara, Maharashtra], an institution that takes care of the mentally retarded and elderly people in the downtrodden society. For the quashment to take effect, the Petitioner 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 receipt within stipulated time, petitions shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*. [Yashodan Charitable Trust : Account No.: 60245873355 IFSC Code : MAHB0000305]

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]