

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTON

WRIT PETITION NO. 5635 OF 2018

Devander Satyanarayan Saini.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Pooja Joshi I/b I/b A.M. Sarogi for the Petitioner.

Mrs. A. S. Pai, APP for the Respondent-State.

Mr. Vaibhav Ugale for Respondent No. 2.

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. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the Petitioner is seeking to quash and set aside the proceeding of criminal case bearing Case No.281/PW/2018 pending on the file of learned Metropolitan Magistrate's Court, Girgaon. The said case has arisen from the FIR bearing CR. No.127 of 2018 registered with Gamdevi Police Station at the instance of Respondent No. 2 herein for the offence punishable under sections 354A, 354D, 504, 506, 509 of the Indian Penal Code, 1860 and sections 67 of the

Information Technology Act.

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 petition is filed for quashing the above criminal proceedings, by consent of Respondent No.2.

4. Respondent No. 2 has filed an affidavit dated 8th April 2019. In paragraph 3 of the said affidavit, she has given no objection to quash the subject FIR and proceeding against the Petitioner. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the subject FIR /criminal proceedings initiated by her against the Petitioner.

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 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. Petition is, therefore, made absolute in terms of prayer clause (a). In the facts and circumstances of the case, we find it would be appropriate to saddle the Petitioner with the cost of Rs.10,000/- [Rs. Ten thousand only], 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 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.]