

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 108 OF 2021

Mohammed Hanif Haji Walimohammed
Dhokadwala & Others.

...Applicants.

Versus

The Sr. Police Inspector & Others.

..Respondents.

Mr. Arfoz A. Siddiquei for the Applicants.

Mr. Mateen Shaikh for Respondent No. 2.

Ms. S. D. Shinde, APP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

Date : April 22, 2022.

P. C. :

1. By this application filed under section 482 of the Code of Criminal Procedure, the Applicants have sought the quashment of criminal proceedings pending on the file of Metropolitan Magistrate, 66th Court, Andheri bearing CC No.1863/PW/2015. The said proceedings is an offshoot of first information report (FIR) bearing C.R.No.426 of 2015, dated 4th August 2015, registered with Saki Naka Police Station against the Applicants on the allegation of commission of offence punishable under sections 323, 324 and 504 read with 34 of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No.2 herein.

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2. Learned counsel appearing for the respective parties submitted that in relation to the same incident, there are cross complaints / FIRs lodged by the parties against one another, namely, the applicants herein have also filed an FIR against Respondent No.2 herein, being FIR No.425 of 2015 dated 3rd August 2015, with Saki Naka Police Station. Learned Counsel further submitted that during the on-going trial of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above criminal proceedings, by consent of original complainant i.e., Respondent No.2 herein.

3. Respondent No.2 has filed an affidavit wherein he has stated that due to the intervention of elderly society members, both sides have resolved and settled the dispute amicably and he does not intend to proceed with the matter and he has having no grievance / complaint against the Applicants. He has categorically stated that he has no objection for quashing the subject FIR against the Applicants.

4. 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 have no objection for quashing the FIR / criminal proceedings in question instituted at his instance 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. The offence alleged cannot be said to have any impact on the society. Evidently, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. They have stated that they have no grudge against each other and the complainant has specifically agreed that he has no objection if the FIR in question is quashed. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between the parties before the court. As they do not intend to proceed with any criminal case against each other, on that basis the submission of the applicants is that the continuance of criminal

proceedings in the aforesaid FIR will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

6. 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 criminal proceedings pending except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of Applicants in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the criminal proceedings in order to secure the ends of justice. We are in agreement with the submission of learned Counsel appearing for the respective parties that the continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

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 criminal proceedings in question. In that view of the matter, the Application is allowed in terms of prayer clause (a), however, subject to the Applicants planting 5 trees each in the premises of Municipal Corporation School situated in Sakinaka area and maintaining those trees for the period of one year. After having completed this exercise, each of the applicants shall obtain certificate from the Head Master of the said school stating that they have satisfactorily maintained and looked after the 5 planted trees for the period of one year. For the quashment to take effect, the Applicants shall produce the certificates on the file of this Court within the period of one year and two months from today. Failing to produce certificates 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*.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]