

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 344 OF 2022

Arissa Asad Khan.

...Petitioner.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Anil Lalla i/b Lalla & Lalla for the Petitioner.

Mr. Sujay Kantawalla, Mr. Subhash Jadhav, Amit Patil, Vinit Kumar i/b
Parinam Law Associate for Respondent No. 2.

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

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

Date : **February 11, 2022.**
[Through video conferencing.]

P. C. :

1. The Petitioner at whose instance the first information report (FIR) bearing No. 600 of 2021 came to be registered at Bandra Station Police Station for the commission of offences punishable under sections 354(D), 509, 524, 323 and 341 of the Indian Penal Code, 1860, has filed this petition before this Court seeking to quash the said FIR. Respondent no.2 is the accused person in the said FIR.

2. Learned counsel appearing for the respective parties submitted that with the intervention of some friends, relatives and well-wishers, the parties have amicably resolved all differences and entered into consent terms and pursuant to which this petition for quashing of the subject FIR is filed before this Court.

3. Learned counsel appearing for the respective parties submitted that the peculiar facts of this case are that Respondent No.2, against whom the Petitioner had lodged FIR, is now prosecuting his higher studies in foreign country and as such he is facing certain difficulties so as to visit India and take necessary steps for filing the appropriate proceedings for the quashment of the FIR. Therefore, the present petition is filed at the instance of original complainant, who has entered into consent terms with Respondent No.2 to settle the misunderstandings and differences. Copy of the consent terms is placed on record at Exhibit-B page no.26 to the petition.

4. In the consent terms it is recorded that both, the Petitioner as well as Respondent No.2, are of very young age and have a very long life ahead and in adherence to the advice of elders and with the able assistance of friends and acquaintances, have agreed to amicably resolve their disputes.

5. Thus, it can be seen that the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that they have no grudge against each other and the complainant has specifically agreed that she has no objection if the FIR in question is quashed. Further, both the parties have undertaken not to indulge in any litigation and withdraw all the complaints pending between the parties before the

Court. As the Petitioner does not intend to proceed with any criminal prosecution of Respondent No.2, on that basis the submission of petitioner is that the continuance of aforesaid FIR will be a futile exercise and mere wastage of precious time of the Court as well as investigating agencies. In view of the above said peculiar facts, and in view of the willingness expressed by the Petitioner (i.e., original complainant herself) for quashment of the FIR lodged by her against Respondent No.2, we are of the view that the petition deserves to be allowed.

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 subject FIR alive, except ultimately burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the afore-stated fact-situation, the continuation of prosecution of Respondent No.2 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 subject FIR in order to secure the ends of justice. We are in agreement with the submission of learned Counsel appearing for the respective parties that continuation of criminal proceedings/FIR 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 FIR in question. Accordingly, petition is allowed in terms of **prayer clause (A)**. However, we also find it would be appropriate to saddle the Petitioner as well as Respondent No.2 with the cost of Rs.25,000/- each, which shall be paid to Tata Memorial Hospital, Mumbai, an institution that takes care of the advanced and terminally ill cancer patients.

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]