

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 878 OF 2020

Suraj Mukund Pawar.

...Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Vishal Deshmukh for the Petitioner.

Mr. Prashant Rathod i/b Raviraj Gamare for Respondent No. 2.

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

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

Date : April 29, 2022.

P. C. :

1. By the present writ petition filed under Article 226 of the Constitution of India as well as section 482 of Code of Criminal Procedure Code, 1973, the Petitioner has sought the quashment of an on-going criminal proceeding against him, being CC No.2489/PW/2019 pending on the file of Metropolitan Magistrate, 22nd Court, Andheri, East, Mumbai. The said proceeding is an outcome of first information report (FIR) bearing CR No.386 of 2019 registered at MIDC Police Station, Andehri (East), Mumbai, at the instance of Respondent No.2 herein on the allegations of commission of offences punishable under sections 326, 324, 279, 427 and 504 read with 34 of the Indian Penal Code, 1860.

2. Learned counsel appearing for the respective parties

submitted that pending trial of the above criminal proceeding, the parties have come together and decided to settle their disputes amicably and as per the understanding arrived at between, the present writ petition is filed for quashment of the subject criminal proceeding/FIR by consent of Respondent No. 2.

3. In the present writ petition, Respondent No.2 has filed an affidavit dated 26th February 2021 wherein he has stated that he is not interested in continuing with the criminal prosecution of the Petitioner in the subject FIR / criminal case. Lastly, he has prayed in the affidavit that the petition filed by the petitioner may be allowed.

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 has no objection for quashing the FIR / criminal proceedings in question instituted at his instance against the Petitioner for the offence punishable under sections 326, 324, 279, 427 and 504 read with 34 of the Indian Penal Code, 1860.

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 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 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.

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 aforesaid fact-situation, the continuation of prosecution of the Petitioner in the instant case will amount to the abuse of process of Court and therefore it is in the fitness of things to quash the subject criminal proceeding in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that 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 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. Accordingly, writ petition is allowed in terms of prayer clause 13(i). However, we also find that it would be appropriate to saddle the Petitioner with the cost of

Rs.10,000/-, which shall be paid to the Tata Memorial Hospital, Mumbai, an institution that takes care of the advanced and terminally ill cancer patients. 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 ten 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 the order quashing the proceedings / FIR shall be treated as *non-est*.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]