

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 248 OF 2018

Pravin Ramnaresh Yadav.

...Applicant.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Amit P. Ghag for the Applicant.

Mr. Milind Dhande for Respondent No. 2.

Mr. K. V. Saste, APP for the Respondent-State.

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

Date : April 29, 2022.

P. C. :

1. By this application, the Applicant has invoked the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 seeking to quash the proceedings of criminal case bearing CC No.3713/PW/2015 pending on the file of Metropolitan Magistrate, 17th Court, Borivali, Mumbai. The said proceeding is an offshoot of the first information report (FIR) bearing No.309 of 2015 registered with Samata Nagar Police Station, Borivali, Mumbai at the instance of Respondent No.2 on the allegation of commission of offence punishable under sections 354(A)(1) and 509 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceedings, with the help and intervention of 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 FIR / criminal proceedings, by consent of original complainant - Respondent No.2 herein.

3. Before this Court, Respondent No.2 has filed an affidavit dated 12th April 2018 wherein she has stated that they have amicably settled the dispute amongst themselves and in that view of the matter she is not desirous of continuing the prosecution in CR No.309 of 2015 and consequent criminal proceeding. She has further stated that she has settled the entire dispute with the Applicant and I do not wish to pursue any legal proceedings, of whatsoever nature against the Applicant. She has categorically stated that she supports the prayer for quashing of FIR / proceeding and she has no objection for quashing the said FIR / proceeding.

4. 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 FIR / criminal proceedings in question instituted at her instance against the Applicant for the offence punishable under sections 354(A)(1) and 509 of the Indian Penal Code, 1860.

5. As the complainant at whose instance the FIR was lodged, has filed an affidavit before this Court stating that the lodgment of FIR was due to some misunderstanding and she has no grievance against the Applicant, it

can be safely said that the continuity of the proceeding, if permitted, would be nothing but a futile exercise and it would only increase the burden of courts which are already overburdened. Evidently the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace. The complainant has specifically agreed that she has no objection if the FIR / proceeding in question is quashed. In view of these facts, we are of the opinion that this is a fit case to exercise our powers under section 482 of the Code of Criminal Procedure, 1973 to secure the ends of justice.

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 Applicant 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 proceedings in order to secure the ends of justice.

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, application is allowed in terms of prayer clause (a). At the same time, we also find it would be appropriate to saddle the Applicant with the cost of

Rs.10,000/-, which shall be paid to Tata Memorial Hospital, Mumbai an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicant 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, the 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.]