

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3042 OF 2021

Hetal Mavji Shah & others.

...Petitioners.

Versus

Heeru Ashok Nagpal
and Another.

..Respondents.

Mr. Smit Kirti Nagda for the Petitioners.

Mr. Pankaj Pandey for Respondent No. 1.

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

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

Date : April 22, 2022.

P. C. :

. Leave to amend granted. Amendment be carried out forthwith.

1. The inherent powers of this Court is invoked by the Petitioners under Article 226 of the Constitution of India as well as under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the First Information Report (FIR) bearing CR No.489 of 2017 registered against them at Santacruz Police Station, Mumbai on the allegation of commission of the offences punishable under sections 452, 504 and 506 read with 34 of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No.1 herein.

2. Learned counsel appearing on behalf of the respective parties submitted that parties have amicably settled their disputes and differences

by way of mutual settlement and pursuant to the understanding arrived at between them, the instant petition is filed for quashing the above FIR, by consent of original complainant - Respondent No.1 herein.

3. In this Court, Respondent No.1 (original complainant) has filed an affidavit dated 8th April 2022 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in the subject FIR. She has solemnly affirmed that has no objection for quashing the FIR in question since the matter between herself and the Petitioners is settled amicably.

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 in question instituted at her instance against the Petitioners for the offence punishable under sections 452, 504 and 506 of the Indian Penal Code, 1860 read with 34 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/FIR, 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. It can be safely said that the dispute is purely of civil nature which has essentially arisen from the leave and licence agreement. Apparently, the parties have settled the matter between themselves, 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 against each other and withdraw all the complaints pending between the parties before the court. As the parties do not intend to proceed with any criminal case against each other, on that basis the submission of the petitioners is that the continuance of the 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 above 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 FIR alive, except ultimately 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 the Petitioners in the instant case/FIR will amount to the abuse of process of Court and therefore it is in the fitness of things to quash the FIR 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 prosecution in the instant case/FIR 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 (C). However, we also find it would be appropriate to saddle the Petitioners 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.

8. For the quashment to take effect, the Petitioners shall pay the said cost and produce the receipts 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*.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]