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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 685 OF 2021

Raj Subhash Pasi and Anr ...Applicants

Versus

The State of Maharashtra & Anr ...Respondents

- Mr. Vijendra Kumar Rai for the Petitioners.
- Mr. R.B. Mokashi for Respondent Nos. 2 to 4.
- Mr. K.V. Saste, APP, for the Respondent – State.

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

DATE : FEBRUARY 08, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. The Petitioners have initially approached this Court seeking quashment of the first information report proceeding arising out of the crime bearing Crime No. 77/2021 registered at Amboli Police Station, Jogeshwari (E), Mumbai for commission of offences punishable under Sections 451, 506 read with Section 34 of the IPC against the Applicants.

3. Learned Counsel for the Applicants as well as

for Respondent Nos. 2 to 4 invited our attention to the affidavit placed on record on behalf of Respondent No. 2 i.e., original informant at whose instance C.R. No. 77/2021 was lodged.

4. Perusal of the documents placed on record in the Petition as well affidavit filed on behalf of Respondent No. 2 show that there was some dispute in respect of premises which was utilized as a restaurant / hotel. The Respondent No. 2 is a hospitality company private limited, Respondent No. 3 is the owner of the private limited company whereas Respondent No. 4 is the owner of the premises. Certain documents are placed on record under the caption of "franchise cum management agreement" at Exhibit 'B', promissory notes, and tax invoices show that there was a commercial transaction between the parties.

5. It is stated in the affidavit filed at the instance of Respondent No. 2 that after registration of the FIR the settlement process was initiated and after several meetings conducted between the parties and the parties have arrived at amicable settlement. The terms of settlement include the payment of dues till March,

2021. In the affidavit-in-reply, Respondent No. 2 makes a specific statement in paragraph 8 and the same reads thus: "I say that I have no complaint of any nature against the Applicants and I have no objection if the said complaint and the proceedings arising thereto filed against the Applicants get quashed and set aside and Applicants give their consent and surety for compliance of Memorandum of Understanding dtd. 21st May, 2021. It is also stated that the affidavit submitted at the instance of original informant with his own consent and without any force or coercion.

6. Apart from the affidavit filed at the instance of Respondent No. 2, the parties have also placed on record joint affidavit duly signed by the parties namely, Applicants as well as Respondent Nos. 3 and 4 referring to the terms of settlement arrived at between the parties. The statement made in the affidavit submitted to this Court by the parties is accepted as an undertaking to this Court.

7. Learned APP, on instructions, submitted before this Court that the proceedings are now at the stage of examination of some witnesses.

8. Considering all the above referred aspects and more particularly the statements in the affidavit at the instance of original informant that the parties have resolved the dispute amicably and the informant is not desirous of prosecuting the matter further and on his free will giving his consent for quashing the proceedings, in our opinion, no fruitful purpose would be served by continuing the proceedings against the Applicants, on the contrary, it would be an act of mere futility.

9. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of first information report, 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.

10. 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 FIR alive, except ultimately 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 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 subject 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 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.

11. 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.

12. Accordingly, Criminal Application is allowed in terms of prayer clause 'a'.

As the police machinery and Court machinery was used by the parties to settle their private

disputes as a corollary of differences of opinion, it would be appropriate to saddle the Applicants to amount of Rs. 1,00,000/- (Rs. One lacks only) each and Respondent Nos. 3 and 4 to an amount of Rs. 50,000/- (Rs. Fifty thousand only) each which shall be paid to "Tata Memorial Hospital" an institution that takes care of the advanced and terminally ill cancer patients.

13. For the quashment to take effect, the Applicants and Respondents shall pay the said cost and produce the receipt 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, application shall stand dismissed automatically without further reference to the Court and order quashing the FIR shall be treated as *non-est*.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)