

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4460 OF 2021

Vinayak Pankaj Shaw.

...Petitioner.

Versus

The State of Maharashtra & Another.

..Respondents.

Beerta H. Bajwa for the Petitioner.

Mrs. S. D. Shinde, APP for the Respondent-State.

Antu Chimathanwala for Respondent No. 2.

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

Date: **February 3, 2022.**
[Through video conferencing.]

P. C. :

1. Heard learned counsel appearing for the respective parties. The present writ petition is filed seeking to quash the proceedings of criminal case bearing CC No. 1836/PW/2020 pending on the file of Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The said proceeding is an outcome of the first information report (FIR) bearing CR. No.237 of 2020 registered with Dahisar Police Station at the instance of Respondent No.2 on the allegation of commission of offences punishable under sections 354D(2), 500, 504 and 507 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 proceeding,

with the help and intervention of family members, 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 petition is filed for quashing the above criminal proceeding by consent of original complainant - Respondent No.2 herein. Learned counsel further submitted that apart from the proceedings which are in question in the present petition, several other parallel proceedings were going on between the parties; and now the parties have decided to resolve their matrimonial disputes amicably. It is also submitted that as the better sense prevailed over the parties and the parties decided to part their ways peacefully, the decree of divorce by mutual consent has been sought.

3. Respondent No.2 has filed an affidavit dated 27th September 2021 in this Court, wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioner in the subject criminal case. She has solemnly affirmed that she has no objection for quashing the proceedings of the criminal case against the Petitioner and has no objection if the petition for quashment is allowed.

4. Respondent No.2 is personally present before this Court by way of virtual mode of hearing. 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 criminal proceedings in question instituted at her instance against the Petitioner, being CC No. 1836/PW/2020 pending on the file of Metropolitan Magistrate, 26th Court, Borivali, Mumbai.

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 offence alleged cannot be said to have any impact on the society. It can be also 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/proceeding in question is quashed.

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 above 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, petition application is allowed in terms of prayer clause (A).

[Anil S. Kitor, J.]

[Prasanna B. Varale, J.]