

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 901 OF 2021

M/s. Mahalaxmi Sales Associates
through its proprietor

Mr. Bajirao S. Ghorpade & Anr.

...Applicants.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Prasad Kulkarni i/b Mr. Nitesh P. Hinduja, Advocates for Applicant.

Mrs. A.S. Pai, PP for the Respondent-State.

Mr. D.P. Khade, Complainant-Respondent No. 2 is present.

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

Date : April 22, 2022.

P. C. :

1. The applicants have approached this Court invoking the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 to quash the First Information Report (FIR) registered against them at Mhaswad Police Station, Satara, being FIR No.37 of 2020, at the instance of Respondent No.2 herein on the allegation of commission of offences punishable under sections 420 and 406 read with 34 of the Indian Penal Code, 1860.

2. Learned Counsel appearing for the respective parties submitted that during the ongoing investigation into above FIR with the help and intervention of friends and well-wishers, the parties have amicably settled their all disputes and differences by way of mutual settlement and

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pursuant to the understanding arrived at between them, the instant application is filed for quashing the above FIR, by consent of original complainant - Respondent No.2 herein.

3. In this Court, Respondent No.2 has filed an affidavit dated 16th March 2022 wherein he has stated that he has no objection to grant the prayers for the quashing of FIR on the ground that the dispute has been amicably settled between both the parties. In paragraph 11 of the affidavit, Respondent No.2 has specifically stated that he unconditionally and unequivocally withdraw all allegations, complaints against the applicants. He has further stated that he is not interested in continuing with the criminal prosecution of the Applicants in the subject FIR.

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 in question instituted at his instance against the Applicants Petitioner for the offence punishable under sections 420 and 406 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 / 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. Apparently, 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 complainant has specifically agreed that he has no objection if the FIR in question is quashed. It appears from the affidavit filed by Respondent No.2 that there are certain other litigation between the parties, which now they have decided to put at rest everything.

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 the subject 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 applicants 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 subject FIR in order to secure the ends of justice. We are in agreement with the submission of learned Counsel appearing for the respective parties that continuation of criminal prosecution of the applicants 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 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, the present application is allowed in terms of prayer clause (a). Nonetheless, we find it would be just and appropriate to saddle the Applicants with the cost of

Rs.1,00,000/-, each 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 Applicants 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, 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.]