

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 913 OF 2021

Dattatray Namdeo Sawant.

..Applicant.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Hrishikesh A. Mundargi i/b Mr. Jayant Bardeskar for the Applicant.

Mr. Rajendra P. Ojha for Respondent No. 2.

CORAM : PRASANNA B. VARALE &

S.M. MODAK, JJ.

Date : April 29, 2022.

P. C. :

1. By the present application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicant has sought the quashment of a criminal proceeding bearing CC No.729/PW/2015 pending on the file of Metropolitan Magistrate, 8th Court, Esplanade, Mumbai. The said criminal proceeding is an offshoot of registration of first information report (FIR) bearing CR No.144 of 2014 with Marine Drive Police Station, Mumbai on the allegation of commission of offence punishable under sections 406, 407, 464, 467, 468, 470, 471, 420 and 511 of the Indian Penal Code, 1860. The said FIR came to be registered at the instance of Respondent No. 2 herein.

2. On a *prima facie* reading of FIR, the dispute appears to be

about the property and accounts of partnership firm. Some of the allegations pertain to misuse of letter-head of the partnership firm.

3. Learned Counsel appearing for the respective parties submitted that pending trial of above criminal proceeding, all the on-going disputes between the parties have been amicably settled. They further submitted that the present FIR is an outcome of misunderstandings and disputes between the parties pertaining to the management and accounts of partnership firm and all those disputes have been put to rest by the parties by entering into terms of settlement, which are filed before the Arbitrator. They further submitted that as the parties have amicably settled their differences by way of mutual settlement, pursuant to the understanding arrived at between them, the instant application is filed for quashing the above FIR and criminal proceedings, by consent of original complainant - Respondent No. 2 herein.

4. Respondent No.2 has filed an affidavit dated 15th March 2022 wherein he has stated that he has no objection if the FIR bearing No.144 of 2014 registered with Marine Drive Police Station and subsequent criminal proceedings are quashed and set aside.

5. 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 / criminal proceedings in question instituted at his instance against the Applicant.

6. 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. It appears that the dispute has a civil flavour. The offence alleged cannot be said to have any impact on the society. Evidently, 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 he has no objection if the FIR in question is quashed. As parties do not intend to proceed with any criminal case against each other, on that basis the submission of learned counsel appearing on behalf of the Applicant is that the continuance of criminal proceedings will be a futile exercise and mere wastage of precious time of the Court.

7. 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 aforestated 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 aforesaid 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 proceeding 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.

8. 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). However, we also find it

would be appropriate to saddle the Applicant with the cost of **Rs.1,00,000/-**, which shall be paid to the 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, 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.]