

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

CRIMINAL APPLICATION NO. 1094 OF 2017

Algoram Jhuri Nishad	...	Applicant
V/s.		
The State of Maharashtra & Ors.	...	Respondents

Mr.Kumar Kothari for the Applicant.
Mr.R.R. Shaikh, A.P.P. for Respondent Nos.1 & 2-State.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 31st OCTOBER, 2017.

P.C. :

1] Heard Mr.Kothari, learned counsel for the Applicant and
Mr.Shaikh, learned A.P.P. for the State.

2] At the outset, learned counsel for the Applicant, seeks
leave to amend the prayer clause so as to give particulars of the
Criminal Case. Leave granted. Necessary amendment shall be carried
out forthwith.

3] The Complainant himself has approached this Court by
invoking jurisdiction under Article 226 of the Constitution of India
read with provisions of Section 482 of the Code of Criminal Procedure
to quash and set-aside the Criminal Case bearing No.765/PS/2016

pending on the file of 16th Metropolitan Magistrate, Bellard-Pier, Mumbai. The said case arises out of registered FIR bearing CR No.41 of 2015 registered with Yellow Gate Police Station at the instance of the Applicant for an offence under Section 280, 338, 427 of the Indian Penal Code read with Section 62-A of the Inland Vessel Act.

4] Pending the trial of the Criminal Case parties settled their dispute and in pursuant of understanding arrived at between them they are approached this Court for quashing the subject Criminal Case by consent. Apart from the fact that the the Applicant, who is also complainant himself, he has also filed an affidavit dated 17th October, 2017. In paragraph (3), he has stated that dispute between himself and the Respondent No.3-Accused as well as the owner of the fishing trolley is settled amicably and, therefore, he did not wish to prosecute the Respondent No.3. He has stated that he has no objection, if subject Criminal Case is quashed. The Applicant is personally present along with the owner of the fishing trolley. The owner of boat Mr.Ramesh Pedru Koli has also filed an affidavit dated 17th October, 2017. In this affidavit also he has stated that the dispute between Respondent No.3 and himself is settled amicably and in that view of the matter he has no objection, if the subject Criminal Case is quashed.

5] The owner of the fishing trolley is present before the Court. He states that he has been explained the contents of the petition and affidavit filed by him and he has understood the same. On a specific query, he states that he has no objection for quashing and setting-aside the subject Criminal Case. It can thus be seen that the disputes between the private parties are settled amicably.

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. The offence alleged cannot be said to have any impact on the society. 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 subject criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

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 subject criminal proceedings.

8] Accordingly, the present application is allowed in terms of prayer clause (a). The C.R.No. 41 of 2015 registered with Yellow

Gate Police Station along with Criminal Case bearing No.765/PS/2016 pending on the file of 16th Metropolitan Magistrate, Bellard-Pier, Mumbai is hereby quashed and set-aside.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]