

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

CRIMINAL WRIT PETITION NO. 1101 OF 2015

Francis Claver Fernandes

..Petitioner

v/s.

Arunkumar Anbalagan & Anr.

..Respondents

Ms.Anandi Fernandes for the Petitioner.

Ms.Lakshmi Raman for the Respondent No.1.

Mr.J.P. Yagnik, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED :MARCH 26, 2015.**

P.C.

1. This petition is filed under Article 226 and 227 of the Constitution of India, 1950 r/w. with the provisions of Section 482 of Cr.P.C. for quashing the proceeding of C.R. No. 147 of 2014 registered with Colaba Police Station, at the instance of respondent no.1 against the petitioner for offence punishable under Section 279, 338 of IPC and Section 134(a) and (b) of the Motor Vehicle Act, 1988. Pending the investigation parties have settled their dispute amicably and in

pursuance to the understanding arrived at between them, filed this petition for quashing the proceeding of C.R.No.147 of 2014 by consent. The respondent no.1 has filed affidavit dated 18.3.2015.

2. In paragraph 3 of the affidavit respondent no.1 has stated that the petitioner has agreed to pay the amount of Rs.1,20,000/- towards compensation. Learned Counsel for the petitioner submits that out of the said amount 50% of the amount is already paid to the respondent and rest of the amount will be paid after quashing of the C.R. In para 5 of the affidavit, respondent no.1 has stated that he has no objection if the proceeding of the said C.R.147 of 2014 is quashed and set aside. The mother of the respondent no.1 , the injured, has also filed an affidavit dated 25.3.2015. In para 5 she has stated that she does not wish to proceed with the said FIR and she is giving consent to quash the proceeding of the subject C.R.

3. The respondent no.1 is personally present before the court. On specific query made by us, he submitted that he has made the said statement in the 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 criminal proceedings in

question initiated by him against the Petitioner for the offence punishable under sections 279, 338 IPC and Section 134(a) and (b) of the Motor Vehicles Act.

4. It can thus be seen that the dispute between the parties is settled. The allegation made against the petitioner is personal in nature and no element of public law is involved in the crime. In the 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 proceeding pending except burdening the Criminal Courts which are already overburdened.

5. 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 criminal proceedings.

6. Accordingly, petition is allowed in terms of prayer clause (a).

9. As a condition precedent for this order to take effect, the

petitioner shall pay costs of Rs.10000/- (Rupees Ten Thousand Only) to the cancer hospital, namely **Shanti Avedana Sadan**, situated at 216, Mount Mary Road, Bandra (West), Mumbai 400 050 and produce a copy of the receipt on the file of this application within a period of three weeks from today.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)