

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

CRIMINAL APPLICATION NO.1021 OF 2013

Mr.Milind C.Bhambure & Anr.	).. Applicants
Vs.	
The State of Maharashtra & Ors.	).. Respondents

WITH

CRIMINAL APPLICATION NO.1022 OF 2013

Mr.Sanjay R.Patel	)..Applicant
Vs.	
The State of Maharashtra & Ors.	)..Respondents

Mr.Rahul S.Kulkarni for the applicants.
Mrs. M.M.Deshmukh APP for the Respondent-State.
Mr.A.A.Shinde for respondent nos.2 & 3.

**CORAM : RANJIT MORE &
K.R.SHRIRAM, JJ.**

DATE : 5th August, 2015

P.C.

1 Heard learned Advocate for the applicants, learned Advocate for respondent nos.2 & 3 as well as learned APP for the respondent-state.

2 Both the applications are filed under provisions of Section 482 of the Code of Criminal Procedure to quash and set aside the proceedings of criminal case no.3187/PS/2011 pending on the file of Metropolitan

Magistrate, 66th Court, Andheri, Mumbai. The said case arises out of registration of the FIR bearing C.R.No.161 of 2011 with Powai Police station, Mumbai.

3 In Criminal Application No.1021 of 2013, the applicant no.1 is the engineer. Applicant no.2 is a director of the Construction Company by name Construction Catalyzer Private Ltd. and applicant no.3 is a Site supervisor of the Construction Catalyzer Private Ltd. The applicant in Criminal Application No.1022 of 2013 is the Contractor employed by the Construction Catalyzer Private Ltd. to construct fabric canopy of a building on IIT Powai building. Accident was occurred on 12.4.2011. On 12.4.2011 husband of the respondent no.2 one Lal Babu Rai met with an accident on the site because of malfunctioning of U-clamp pulley. The respondent no.2 is the wife and respondent no.3 is the father of the said Lal Babu Rai. Initially FIR was registered for an offences punishable under Sections 288, 336, 338 r/w 34 of IPC. Since Lal Babu Rai was subsequently expired, the offence under Section 304-A was added. After completion of investigation, charge-sheet was also filed.

4 During the pendency of the trial, parties settled their dispute amicably and filed the above applications for quashing the proceedings of the said complaint by consent. The learned Advocate for the

respective parties state that respondent no.2 is re-married. The contention is supported by the affidavits filed by respondent no.2 & respondent no.3. The respondent no.2 as well as respondent no.3 have filed separate affidavits. Affidavit of respondent no.2 discloses that she has a daughter from deceased Lal Babu Rai. The respondent no.3 is present today in the court and states that name of the daughter is Saloni and she is aged about 6 years. The respondent no.2 & respondent no.3 have been in their affidavits stated that they have been paid an amount of Rs.2,00,000/- each by the applicants in the aforesaid applications and accordingly they have settled the dispute. They have stated that they do not wish to prosecute the criminal case. They have given NOC to quash and set aside the subject proceedings.

5 At the time of the incident the age of the deceased Lal Babu Rai was 22 years. Though the respondent no.2 is re-married, the deceased has left 3 years old daughter. At present her age is 6 years.

6 The compensation given by the applicants to the respondent nos.2 & 3, in our view, was inadequate and therefore, we suggested the learned Advocate for the applicants and the applicant who is present in court whether they are willing to pay some more compensation to the daughter of the deceased Lal Babu Rai and respondent no.3. The

applicant no.2 in Criminal Application No.1021 of 2013, the director of the Construction Catalyzer Pvt. Ltd. fairly stated that his company is ready and willing to pay an amount of Rs.3 lakhs more to the daughter of the deceased and respondent no.3. Statement accepted.

7 In above circumstances and 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. We are also of the opinion that in the interest of justice, we are inclined to quash and set aside the criminal proceedings.

8 The proceedings of the criminal case No.3187/PS/2011 pending before the Learned Metropolitan Magistrate, 66th Court, Andheri Mumbai, under Sections 304-A, 288, 336 & 338 r/w 34 of IPC are quashed subject to applicants depositing an amount of Rs.3,00,000/- within a period of 2 weeks from the date of receipt of this order.

9 Registry shall pay the amount of Rs.1,00,000/- to the respondent no.3 out of the aforesaid amount of Rs.3,00,000/- on making appropriate application by him. The rest of the amount of Rs.2,00,000/- shall be invested in a fixed deposit of any nationalized bank in the name of the

daughter Saloni for a period of 5 years. Registry shall hand over the fixed deposit receipt to the respondent no.2-mother and natural guardian of the daughter, on making proper application. Registry shall communicate this order to the respondent no.2.

(K.R. SHRIRAM, J.)

(RANJIT MORE,J)