

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO.26 OF 2016.

Richie Edwin Dias, s/o Santan
Dias, major in age, r/o. H. No.
753, Mandur, Azossim Tiswadi,
Goa.

..... Petitioner.

Versus

1. State of Goa, Through the
Public Prosecutor, High
Court , Panaji, Goa.

2. The Police Inspector,
Agacaim Police Station, Dist-
North Goa, Goa.

3. Rahul Priolkar, s/o Late
Kishor Priolkar, major in age,
r/o. H. No. 12, Bandh, Santa-
Cruz, Ilhas, Goa.

..... Respondents.

Mr. V. Amonkar, Advocate for the petitioner.

Mr. M. Amonkar, Additional Public Prosecutor for the respondent nos.1
and 2.

Mr. A. Kudtarkar, Advocate for the respondent no.3.

**Coram:-F. M. REIS,
K. L. WADANE, JJ.**

Date:-2nd March, 2016.

ORAL JUDGMENT (Per K. L. Wadane, J.

Heard Mr. V. Amonkar, learned Counsel appearing for the
petitioner, Mr. M. Amonkar, learned Additional Public Prosecutor
appearing for the respondent nos.1 and 2 and Mr. A. Kudtarkar,

learned counsel appearing for the respondent no.3.

2. Rule.

3. Heard forthwith with the consent of the learned counsel appearing for the respective parties. Learned Counsel appearing for the respondents waive service.

4. The present petition is filed by the petitioner/accused, invoking jurisdiction under Articles 226 and 227 of the Constitution of India read with Section 482 of the Cr.P.C. for quashing and setting aside the chargesheet bearing No.32/2013 in Criminal Case No.IPC/140/2013/B pending before the Judicial Magistrate First Class, Panaji.

5. The brief facts of the case may be stated as follows:-

On 29.3.2013 at about 19.30 hours, within the jurisdiction of respondent no.2, the petitioner drove his motorcycle in a rash and negligent manner and when the petitioner and the pillion rider /respondent no.3 reached near the spot of the accident, the motorcycle gave dash to one Scorpio jeep, due to which the petitioner as well as the respondent no. 3 fell down and sustained grievous injuries, therefore, offence punishable under Sections 338 and 279 of IPC came to be registered against the petitioner.

6. After as usual investigation, the investigating officer has submitted the chargesheet bearing no. 32/2013 in the Court of Judicial Magistrate, First Class, Panaji and it is bearing Criminal Case No. 140/2013/B. The petitioner and the respondent no. 3 have amicably settled the matter and submitted an application before the learned Judicial Magistrate First Class under Section 320 of Cr.P.C. The learned Judicial Magistrate First Class was pleased to compound the offence punishable under Section 338 of IPC. However, offence punishable under Section 279 of IPC is non-compoundable, the learned Judicial Magistrate, First Class was pleased to dismissed the said application. Hence, this petition.

7. We have perused the petition and the relevant record from which it appears that the respondent no. 3 is close friend of the petitioner and both of them have submitted an application for compounding of the offence levelled against the petitioner. However, the offence punishable under 279 of IPC is non-compoundable. In the present proceedings the respondent no.3 has filed an affidavit and thereby has stated that respondent no. 3 and the petitioner are closed friends from childhood. The chargesheet pending against the petitioner and the respondent is causing hardship to them, therefore, the respondent no. 3 has also prayed to allow the petition.

8. Mr. M. Amonkar, learned Additional Public Prosecutor appearing for the resplendent nos.1 and 2 has no objection to allow

the application.

9. Alleged offence committed by the petitioner is not serious offence of mental depravity, murder or rape or dacoity or the offence under special statutes like Prevention of Corruption Act. The offence levelled against the accused is not private in nature and have no serious impact on the society. Therefore, in view of the observation of the Apex Court in a case of ***Gian Singh Vs. State of Punjab and another, reported in 2012(10) SCC 303***, we are of the opinion that the petitioner and the respondent no. 3 can be permitted to compound, therefore, the application filed by the petitioner and the respondent no.3 jointly is hereby allowed and the Criminal Case No. IPC/140/2013/B pending on the file of the Judicial Magistrate First Class, Panaji is hereby quashed and set aside.

10. Rule is made absolute in the above terms.

11. Petition stands disposed of accordingly.

K. L. WADANE,J.

F. M. REIS,J.

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