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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 34 OF 2015

Leon Lono ... Applicant
vs.
The State of Maharashtra & Anr. ... Respondents

Mr. Shantanu Singh a/w. Ms. Shreema Doshi and M/s. Kameela Diler i/b.
Dutt Menon Dunmirrsett, Advocate for the applicant.

Dr. F.R. Shaikh, APP for respondent no. 1.

Mr. Ganesh Dnyandev Tawre, respondent no. 2 in person.

**CORAM: A.S. OKA &
MRS. MRIDULA BHATKAR, JJ.
DATE : AUGUST 4, 2016.**

P.C.

Rule. Learned APP waives service for the first respondent. The second respondent appearing in person waives service. The Application is forthwith taken up for final disposal.

2. The second respondent has tendered an affidavit giving consent for quashing the proceedings of the criminal case on the basis of settlement. As the second respondent is appearing in person, we directed Mr. Popat Kesu Jagdale, P.S.I., Dharavi Police Station to verify the documents of identity of the second respondent. Learned APP, on instructions from Mr. Popat

Jagdale, P.S.I., states that the documents produced by the second respondent have been verified and the second respondent is the first informant in the present case. We accept the said statement.

3. The prayer in this Application under section 482 of Code of Criminal Procedure, 1973 (for short Cr. P.C) is for quashing the charge sheet and proceedings of the case for the offences punishable under sections 279, 337 and 323 of the Indian Penal Code read with section 134A of the Motor Vehicles Act, 1988. As far as the offences under sections 337 and 323 are concerned, the same are compoundable. The offence under section 323 is compoundable by the person to whom the hurt is caused.

4. We have perused the documents forming part of the charge sheet. The case made out is that the applicant was driving a car at the relevant time. The allegation is that as a result of rash and negligent driving of the car, the second respondent suffered injuries to his right arm and finger of the right arm. We have perused the medical certificate which is forming a part of the charge sheet. Though the medical certificate records that there was injury to the forearm and second respondent was sent for X-ray, there

is no further medical certificate brought on record.

5. In the absence of any material to show that the second respondent suffered a fracture, the injury will have to be termed as a simple injury. The second respondent has filed an affidavit giving consent for quashing on the ground of settlement. The offence cannot be said of serious nature having serious impact on the Society.

6. In the light of the decision of the Hon'ble Apex Court in the case of **Gian Singh vs. State of Punjab**,¹, this is a fit case to exercise power under section 482 of Cr. P.C. Accordingly, the applicant must succeed and we pass following order:

ORDER

(i) Rule is made absolute in terms of prayer clause (g) which reads thus:

“g. That this Hon'ble Court be pleased to call for the records and proceedings of Police Case (S) No. 1577/PW/2015 pending before 12th Court of Metropolitan Magistrate at Bandra, and after examining the legality and

¹ (2012) 10 SCC 303

propriety of the foregoing case and charge sheet, to order and direct its quashing.”

(ii) All the concerned to act upon the authenticated copy of the order.

(MRIDULA BHATKAR, J.)

(A.S. OKA, J.)