

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

CRIMINAL APPLICATION NO.541 OF 2016

Mr.Shravan Laxmichand Suthar .. Applicant

V/s.

The State of Maharashtra & Anr. .. Respondents

Mr.Amit P. Ghag for the Applicant.

Mrs.M.H. Mhatre, APP for Respondent No.1-State.

Mr.Jayant S. Bodke for Respondent No.2.

**CORAM : A.S.OKA &
A.A.SAYED,JJ.**

DATED : 13th JUNE 2016.

P.C.

1. Heard learned counsel appearing for the applicant, the learned counsel appearing for the second respondent and learned APP for the first respondent.

2. Rule.

3. Learned APP waives service for the first respondent. Learned counsel appearing for the second respondent waives service. Forthwith taken-up for final disposal.

4. Perused the statement of the second Respondent on the basis of which the impugned First Information Report alleging commission of offences under sections 354, 279, 337 of the Indian Penal Code as well as Section 134 of the Motor Vehicles Act, 1988 has been registered.

5. The incident occurred when the second respondent along with her cousin were proceeding by a two wheeler at 9.30 p.m near Juhu Chowpati. The second Respondents cousin was plying the two wheeler when a motor car allegedly driven by the applicant gave a dash to the motorcycle/two wheeler on which the second respondent and her cousin were traveling. The allegation is that the applicant was trying to run away without taking second respondent and her cousin to the Medical Center/Hospital. The allegation is that then the second respondent by contacting police sought help of the police. It is alleged that the applicant committed an act set out in the statement of the second respondent which according to her constitutes an offence punishable under section 354 of the Indian Penal Code. We have perused the investigation papers.

We have perused the statement recorded by the police of the cousin of the second respondent. Taking the statement of the cousin as correct, at the highest the offence will be under Sections 279 and 337 of the Indian Penal Code. The second respondent's version regarding the commission of offence under Section 354 of the Indian Penal Code is not supported by her cousin. Thus we are not satisfied that an offence under Section 354 of the Indian Penal Code is made out.

6. There is affidavit filed by the second respondent recording an overall settlement with the applicant. The learned counsel appearing for the applicant states that applicant has paid a sum of Rs.50,000/- to the second respondent and her cousin in satisfaction of their claim for compensation on account of the incident.

7. The learned counsel appearing for the second respondent on instructions of second respondent states that even the second respondent has expressed regret and she would pay a donation of Rs.10,000/- by an account payee

cheque drawn on her own account out of her own funds to the Police Welfare Fund. We accept the said statement.

8. The statements of both the second respondent as well as cousin do not state as to how the applicant was negligent. Therefore, in view of settlement, this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure Code, 1973. Accordingly, we pass following order.

ORDER

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

“ This Hon'ble Court be pleased to quash the impugned FIR/C.R. No.299 of 2015 registered with Juhu Police Station for alleged commission of offences U/s.354, 279, 337 of IPC and Section 134(a)(b) of The Motor Vehicles Act.”

(ii) We accept the statement of the second respondent that the second respondent will pay a sum of Rs.10,000/- from her own funds by drawing an account payee cheque in favour of the Police Welfare Fund. The amount shall be paid within a period of three weeks from today.

(iii) Application is disposed of on above terms.

(iv) For reporting compliance of the aforesaid statement, application shall be listed on 21st July 2016 under the caption of 'Direction'.

(A.A. SAYED, J)

(A.S.OKA, J.)