

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.700 OF 2016

Meher Hodiwalla. .. Applicant

Vs

State of Maharashtra and Another. .. Respondents

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Shri Sandeep R.Karnik for the Applicant.

Dr.F.R. Shaikh, APP for the Respondent No.1.

Shri Himanshu V. Pradhan i/b M/s. Chitnis & Co for the Respondent No.2.

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

DATED : 15TH JULY 2016

PC.

1. Rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the offences registered Vide C.R. No.117 of 2016 with Tardeo Police Station under Sections 279 and 337 of the Indian Penal Code.

3. We have perused the statement of the first informant on the basis of which the First Information Report was registered. The first informant and her other family members including her sister visited the National Sports Club of India on 8<sup>th</sup> May 2016. After they came out from the premises of National Sports Club of India, a motor car driven by the Applicant came out of the basement which gave a dash to the first informant and her sister and her minor daughter. As far as the offence under Section 337 of the Indian Penal Code is concerned, it is compoundable at the instance of the victims of the offence. Quashing is sought on the basis of the affidavit filed by the first informant as well as her sister Jaya Kevalramani who was injured in the incident. The other injured person was a minor daughter of the first informant. In the affidavit, they have stated that there is a settlement between them and the Applicant as the incident was as a result of this judgment. A sum of Rs.95,000/- has been paid by way of compensation by the Applicant to the second Respondent. We may note here that a Demand Draft in the sum of Rs.95,000/- has been handed over by the learned counsel appearing for the Applicant to the learned counsel appearing for the second Respondent. Going by the allegations made in the statement of the second Respondent on the basis of which the FIR was registered, it is very difficult to come to a conclusion that a case of rash and negligent driving on the part of the Applicant is made out. In any case, there is a complete settlement. The alleged offence cannot be

said to be against the society at large. In view of the settlement between the parties, this is a fit case to exercise the power under Section 482 of the CrPC in the light of the decision of the Apex Court in the case of *Gian Singh v. State Bank of Punjab*<sup>1</sup>.

4. Accordingly, we pass the following order:

ORDER :

(a) The Rule is made absolute in terms of prayer clause

(a) which reads thus:

“(a) This Hon'ble Court may under Section 482 of Cr.Pc. quash and set aside the said FIR bearing C.R. No.117 of 2016 registered with Tardeo Police Station, Mumbai for offences punishable under Section 279 and 337 of Indian Penal code on such terms and conditions as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

(b) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

( A.S. OKA, J )

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1 (2012) 10 SCC 303