

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.630 of 2017

Pratik Vinay Pataki and Another. .. Petitioners
Vs
The State of Maharashtra and Another. .. Respondents
—
Ms. Anjali Patil for the Petitioners.
Shri K.V. Saste, APP for the Respondent No.1.
Shri Arun K. Rajput for the Respondent No.2.
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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 9TH MARCH 2017

PC.

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

2. The prayer in this Petition under Article 226 of the Constitution of India is for quashing First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under Sections 279, 337 and 338 of the Indian Penal Code. The allegation is that the Petitioners who are shown as the Accused were plying their respective motor-cycles on the J.J. Flyover in Mumbai in a rash and negligent manner. They gave a dash to the motor cab of

the second Respondent which was carrying passengers. The contention is that though there was a prohibition on two wheeler entering J.J. Flyover, the Petitioners entered the J.J.Flyover and while plying their respective motor-cycles rashly and negligently, they gave a dash to the motor cab. As a result, damage is caused to the motor cab of the first informant. Both the Petitioners were injured and Shri Shubham Ramnarayanji Bangad and Shri Agraj Sudesh Doshi were also injured.

3. The second Respondent has filed an affidavit dated 7th February 2017 stating that the Petitioners have compensated him on account of damage caused to his motor cab. He has stated that none of the passengers in the Taxi were injured. He has, therefore, recorded his no objection for quashing the proceedings. Both Shri Shubham Ramnarayanji Bangad and Shri Agraj Sudesh Doshi have also filed their respective affidavits on 17th February 2017. Both of them have stated that the Petitioners have compensated them by paying for medical expenses incurred by them for treating the minor injuries suffered by them.

4. Out of the three offences for which the chargesheet is filed, the offences punishable under Sections 337 and 338 are compoundable offences. Considering the nature of the allegations, it cannot be said that the offences alleged against the Petitioners are against the society

at large. Therefore, this is a fit case to exercise the power under Section 482 of the Code of Criminal Procedure, 1973 for quashing the offence especially when the injuries sustained by the victims are minor injuries for which they have been compensated.

5. However, we find that the Petitioners were admittedly plying the two wheelers on the J.J. Flyover though there is a complete prohibition on plying the two wheelers on the J.J.Flyover. We, therefore, propose to impost costs of Rs.15,000/- on the Petitioners payable to the Mumbai Police Welfare Fund.

6. Accordingly, we pass the following order:

ORDER :

- (a) The Rule is made absolute in terms of prayer clause
- (i) subject to condition of the Petitioners depositing a sum of Rs.15,000/- (Fifteen Thousand) by way of costs with the Mumbai Police Welfare Fund within a period of one month from today. The prayer clause (i) reads thus:

“(i) The C.R. No.211 of 2016 registered at M.R.A. Marg Police Station may be quashed with the Consent of the Complainant.”

- (b) If receipt of payment is not produced within a period of one month from today, the Petition shall stand dismissed for non-prosecution without further reference to the Court;
- (c) All concerned to act upon an authenticated copy of this order.
- (d) For reporting compliance, the Petition shall be listed on 13th April 2017 under the caption of “Directions”.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)