

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 332 OF 2017

Mr. Fahim Ansari.	..	Applicant.
Vs		
State of Maharashtra and Another.	..	Respondents
—		
Shri Fauzan Shaikh for the Applicant.		
Ms. M.H. Mhatre, APP for the Respondent No.1.		
Shri Sachin Kamble for the Respondent No.2.		
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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 24TH MARCH 2017

ORAL JUDGMENT (PER A.S. OKA, J)

1. Heard the learned counsel appearing for the Applicant. Rule. The learned APP waives service for the first Respondent. The Advocate 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”) for quashing the First Information Report (FIR) lodged at the instance of the second Respondent for the offences punishable under Sections 279, 336 and 427 of the Indian Penal Code and Section 184 of the Motor Vehicles Act,

1988. The quashing is sought on the ground of settlement. The allegations made in the FIR filed by the second Respondent is that when his car was stationary, a motor-cycle plied by the present Applicant came in a high speed and gave a dash to the front portion of his car at its right hand side. There was an allegation made that the pillion rider accompanied the Applicant fell down and sustained injuries. There is no allegation made that the second Respondent sustained injuries. In fact, the second Respondent and his friend took the Applicant to a nearby hospital for treatment. Thereafter, the second Respondent lodged FIR.

3. Going by the chargesheet, there was no injury caused to any of the occupants of the car of the first informant. There was a damage to the car. Only person who sustained injuries is the Applicant himself. The offence under Section 427 of the Indian Penal Code is a compoundable offence. The second Respondent has filed an affidavit recording that the dispute between him and the Applicant is settled.

4. Taking the material forming part of the chargesheet as correct, the offence punishable under Section 336 of the Indian Penal Code is not attracted.

5. Considering the settlement and considering the nature of the offences which cannot be said to be against the society at large and/or of heinous nature, this is a fit case where the power under Section 482 of the CrPC should be exercised for quashing the proceedings.

6. We find that the Investigating Officer has purported to record the statement of the Applicant on 6th February 2015 in which it is recorded that the Applicant has accepted his guilt and a thumb impression of the Applicant has been obtained. This Court has repeatedly deprecated the practice followed by some of the Police Stations in Mumbai of recording statements of the accused persons incorporating an admission of guilt. We direct the Office of the Public Prosecutor to forward a copy of the present Application along with a copy of this order to the Commissioner of Police. It is necessary to issue directions in writing for stopping this illegal practice.

7. Accordingly, we pass the following order.

ORDER :

(a) Rule is made absolute in terms of prayer clause (a) which reads thus;

“(a) This Hon'ble Court after perusing the records and proceedings be pleased to

quash and set aside the C.C. No.1296/PS/2015 pending before the Ld. Addl./Chief Metropolitan Magistrate 28th Metropolitan Magistrate Court, Esplanade, Mumbai and FIR No.50/2015 registered for the offences punishable under section 279, 336 and 427 IPC read with 184 of the Motor Vehicle Act 1988 filed by the Respondent No.1 L T Marg Police Station.”

- (b) We direct the Office of the Public Prosecutor to forward a copy of the present Application along with a copy of this order to the Commissioner of Police;
- (c) The Commissioner of Police will note that in the present case, the Investigating Officer has purported to record a statement of the Applicant and has taken thumb impression of the Applicant on the said statement which is made a part of the chargesheet. It will be appropriate if the Commissioner of Police issues directions to all the Police Stations in Mumbai to stop such practice of recording statements of the accused persons incorporating admission of guilt. Necessary action shall be taken by the Commissioner of Police within a period of one month from the date of receipt of a copy of this order;

- (d) We direct the Applicant to pay costs of Rs.5,000/- to the Mumbai Police Welfare Fund within a period of six weeks from today;
- (e) For reporting compliance, the Application shall be listed on 4th May 2017;
- (f) All concerned to act upon an authenticated copy of this order.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)