

* 1/4 * APL-886-2017 (SR.901)
Tuesday, 22.8.2017

CRIMINAL APPLICATION NO. 886 OF 2017

Andrea Fernandes D'limaApplicant
V/s.
State of Maharashtra & anr.Respondents

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Mr. H.P. Ingle i/by. Mr. Prashant Goyal, Advocate for the applicant.

Ms. Bharati Aindley, Advocate for respondent no.2.

Sunil Jagannath More, respondent no.2 present in person.

CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.

DATE :- 22ND AUGUST, 2017.

P.C. :-

1. By the above Criminal Application, the applicant seeks quashing and setting aside of the proceedings being Case No. 1802/PS/2017 pending before the Learned Additional Metropolitan Magistrate, 10th Court, Andheri. Respondent no.2 herein is the First

Informant. The cause for filing the complaint was the accident which took place on account of the dash given by the vehicle driven by the applicant to the road dividing barricade, as a result of which, respondent no.2 who was crossing the road was injured. Respondent no.2, therefore lodged complaint with the D.N. Nagar Police Station, Mumbai for the offences punishable under Sections 279 and 337 of the Indian Penal Code. The parties have amicably settled the dispute, as a consequence of which, respondent no.2 i.e. the First Informant has filed his Affidavit wherein the terms of the settlement have been mentioned. In the context of the relief sought in the above application, para-3 of the said Affidavit dated 10th August, 2017 is material and is reproduced herein under :

“3. I say that I have made this Affidavit with my free consent and Will and that there is no element of coercion or fraud.

. I, therefore, pray that proceedings against the applicants be quashed as prayed

for by him.”

2. Hence, the reading of the Affidavit, discloses that the First Informant has no objection if the proceedings pending against the applicant are quashed and set aside.

3. Respondent no.2 is personally present in the Court. He is identified by the Learned Counsel appearing for him. He is also identified by his Aadhar Card No. 9220 8509 5213. When put in the box and queried, he states that the Affidavit at page-31 is his and that he has signed the same and that the contents of the said Affidavit are acceptable to him.

4. Having regard to the Affidavit filed by respondent no.2, as also, in the light of the judgments of the Apex Court in the case of **Gian Singh v/s. State of Punjab, reported in (2012) 10 SCC 303** and **Narinder Singh V/s. State of Punjab, reported in**

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(2014) 6 SCC 466, no useful purpose would be served by keeping the proceedings pending. Hence, there is now no impediment in quashing the proceedings. The above application is accordingly allowed and made absolute in terms of prayer clause (a).

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)