

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1361 OF 2016

Mr. Ankit Ramanand Vishwakarma. .. Applicant.
Vs
Mrs. Sanjivani Sanjay Devale and Another. .. Respondents
—
Shri Ranjit S. Singh for the Applicant.
Shri Shivjeet Singh for the Respondent No.1.
Mrs.S.V. Sonawane, APP for the Respondent No.2.
—

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 16TH JANUARY 2017

PC.

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

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the chargesheet for the offences punishable under Section 279 and 338 of the Indian Penal Code. The first informant has alleged that when she was crossing Juhu Tara Road at Santacruz (West), Mumbai, a motor cycle plied by the Applicant gave a dash to her. The allegation is that the motor cycle was being driven in a rash and negligent manner thereby causing injury to

the first Respondent. The injury certificate of the first Respondent is produced on record which shows that she has suffered a fracture of pelvis.

3. An affidavit has been filed by the first Respondent in which she has stated that she has received a compensation of Rs.50,000/- by way of cheque from the Applicant and that in view of payment of compensation, she does not want to prosecute the proceedings any further.

4. The offence alleged under Section 338 of the Indian Penal Code is compoundable at the instance of the injured. The offence under Section 279 of the Indian Penal Code is not compoundable. The first Respondent who was a pedestrian was crossing the Juhu Tara Road was given a dash by the motor cycle driven by the Applicant. There is an overall settlement between the Applicant and the first Respondent as he has paid the sum of Rs.50,000/- by way of cheque towards compensation to the first Respondent. As stated earlier, the offence punishable under Section 338 of the Indian Penal Code is compoundable. Considering the peculiar facts of the case and in view of the overall settlement between the Applicant and the first Respondent, we are inclined to exercise the power under Section 482 of the Code of Criminal Procedure, 1973. In the facts of the case, it

cannot be said that the offence is against the Society at large or that the crime is heinous in nature. The injured person has been compensated by the Applicant. Therefore, in our view, in the facts of the case, this is a fit case to exercise the power under Section 482 of the said Code.

5. Accordingly, we pass the following order:-

ORDER :

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

which reads thus:

(b) This Hon'ble Court may kindly be pleased to exercise its inherent powers u/s. 482 of Cr.P.C. And kindly be pleased to quash FIR No.552/2014 in Court Case no.1140/PS./2015 pending before the Ld. Metropolitan Magistrate's, 71st Court, At Bandra, Mumbai, lodged by Santacruz POLICE STATION for offences punishable u/s. 279, 338 of I.P.C., bearing F.I.R.No. 552/2014, lodged at the instance of MRS. SANJIVANI SANJAY DEVALE (Ori. Complainant/the First Informant) i.e. the Respondent No.1.”

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