

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4095 OF 2016**

**Mr. Rohit Harish Punwani
Vs.
State of Maharashtra & Ors**

**..Petitioner

..Respondents**

**Mr. M. K. Mishra for the Petitioner
Mr. Mahesh Prajapati for the Respondent No.2
Mrs. A. S. Pai Addl PP for the Respondent State**

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 15th SEPTEMBER, 2017**

P.C.

1 By the above Criminal Writ Petition the Petitioner seeks quashing of the criminal proceeding being Court Commissioner No.2293/PW/2015 pending on the file of the Learned 26th Metropolitan Magistrate Court at Borivali, Mumbai. The FIR was registered with the Gorai Police Station on 21-3-2015 for offences punishable under Sections 285, 338, 114 of the Indian Penal Code and Section 129 of Maharashtra Police Act.

2 The said FIR was lodged by one Mr. Umesh Uttamrao Raul. Pursuant to the leave granted by the Division Bench of this Court by order dated 15-3-2017, in the above Writ Petition the victim Libreta Victor Pereira has been joined as the Respondent No.2 in the above Writ Petition. The cause for filing the FIR was the incident which took place on 21-3-2015 when the

Petitioner and the victim were part of the group who had planned a barbeque. It is alleged in the FIR that on account of the oil poured on the coal kept for the barbeque that the victim Libreta Victor Pereira who was wearing a nylon dress caught fire which was immediately brought under control but she suffered some burn injuries. It is not necessary to further dilate on the facts. After Ms Libreta Pereira was joined as a party Respondent to the above Writ Petition, she has filed her affidavit which is affirmed before the notary public of Mr. Brajesh C. Yadav dated 26-10-2016 and bears notarial register No.7558/16. The witness to the said incident Ms Marina Denis D'souza, Mr. Gowraj Vikas Surve, Mr. Robin Ouspeh Kodiyan and Mr. Pranay Mukesh Sharma, have also filed their affidavits which are identical to the affidavit filed by Ms Libreta Victor Pereira. The relevant excerpts of the said affidavit are paragraphs 3 to 5, for the sake of ready reference which are produced hereinunder :

3 I say that immediately my said all friends helped me and quashed the fire and taken me to Tunga Hospital at Mira Road. I say that after initial treatment I was shifted to KEM hospital and treated there.

4 I say that said incident was just an Accident there was no intent and no negligence by anybody or of Petitioner.

5 I say that I shall have no objection if this Honourable court Quashes the said FIR No.12/2015 and Court Commissioner No.2293/PW/2015 filed against the Petitioner and co Accused.

3 The victim as also the witnesses are therefore not desirous of

proceeding with the proceedings for prosecuting the Petitioner. It is required to be noted that the offences punishable under Sections 285, 338, 114 of the Indian Penal Code and Section 129 of Maharashtra Police Act, are summons triable. Hence having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the above Criminal Writ Petition pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

4 The Learned Counsel Mr. Prajapati undertakes to file vakalatnama on behalf of the Respondent No.2, if not already filed, within one week from date. Undertaking accepted.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065