

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.551 OF 2018

Harsh Mehul Desai ..Applicant
V/s.
The State of Maharashtra & Anr. .. Respondents

Mr.Yashodhan Gavankar for the Applicant.

Mr.K.V. Saste, APP for the Respondent-State.

Ms.Ayesha M. Pinto for Respondent No.2.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 26th OCTOBER 2018

P.C.

1. Heard learned counsel for the applicant, learned APP for the Respondent-State and learned counsel for respondent No.2.

2. The application is filed for quashing and setting aside the FIR bearing C.R.No.46 of 2018 registered with Aarey Police Station, Goregaon, Mumbai, at the instance of the respondent No.2 for an offence punishable under Sections 279 and 338 of the Indian Penal Code and 134(a) and (b) of Motor Vehicle Act, 1988.

3. Pending investigation, parties have settled their dispute amicably and in pursuant to the understanding arrived between them they have approached this Court for quashing the subject FIR by consent. The respondent no.2 accordingly filed an affidavit dated 03.05.2018. In paragraph No.7, he has given no objection for quashing of the FIR. The respondent No.2 is personally present in the Court and on specific query he has made a statement, that he has gone through the application and affidavit and understood the contents thereof. He specifically states that he has no objection to quash the subject FIR against the present applicants.

4. Though FIR disclose that the pillion rider on the motorcycle which was driven by the respondent No.2 also sustained some injuries however, those injuries are not serious and whereabouts of the said pillion rider are not known. Mr.Saste, learned APP also state that police could not trace him. In these circumstances do not insist his presence and no objection for quashing the subject FIR.

5. The Hon'ble Apex Court in the case of *Narinder Singh vs. State of Punjab*¹ has observed thus :-

1 [2014 AIRSCW 2065]

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceedings having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court.”

In the light of the aforesaid observations we have noted that the two rival parties have amicably settled dispute between them and no gainful purpose would be achieved in continuing the prosecution.

6. In the backdrop of above facts and circumstances and

especially in view of law laid down by the Apex Court in the case of Narinder Singh (supra), we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are liable to be quashed. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

7. Accordingly, the subject FIR bearing CR No. 46 of 2018 registered registered with Aarey. Police Station, Goregaon, Mumbai is quashed and set aside to payment of costs of Rs.10,000/-. The applicant shall deposit the costs with Yashodhan Charitable Trust, Satara. Details of the account of Yashodhan Charitable Trust, Satara are as follows :-

Account Name	:	Yashodhan Charitable Trust
Bank Name	:	Bank of Maharashtra
Account No.	:	60245873355
IFCS Code	:	MAHB0000305
Branch	:	Powai Naka, Satara
A/c. Type	:	Saving

The said amount be deposited within the period of two weeks from today and the receipt of the same be placed on record.

8. Subject to above, the criminal application stands disposed of.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)