

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTON

CRIMINAL APPLICATION NO. 380 OF 2019

Ali Mehndi Mohammed Ali Hemani. ..Applicant.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. Husen Shaikh for the Applicant.

Ms. S. D. Shinde, APP for the Respondent-State.

Mr. S. R. Dubey for Respondent No. 2 and 3.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **April 30, 2019.**

P. C. :

1. Heard the learned counsel for the Applicant, the learned counsel for Respondent Nos.2 and 3 as well as learned APP for the Respondent-State.

2. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicant is seeking to quash and set aside the FIR bearing CR. No. 19 of 2019 registered with Sewari Police Station at the instance of Respondent No.2 for the offence punishable under sections 279 and 338 of the Indian Penal Code, 1860 and sections 184 and 134(A)(B) of the Motor Vehicles Act, 1988.

3. The learned Counsel appearing for the respective parties submitted that pending investigation into above FIR, with the help and intervention of friends and well-wishers, the parties amicably settled

their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present application is filed for quashing the above FIR, by consent of Respondent Nos 2 and 3. They submitted that parties have accordingly entered into memorandum of understanding dated 30th April 2019. Under the said MoU, the Applicant has agreed to pay to Respondent no.2 an amount of Rs.50 lakh towards the full and final settlement of claims for compensation. Out of this amount of Rs.50 lakh, an amount of Rs.5 lakh is already paid by the Applicant to Respondent No. 2. This fact is not disputed by the learned counsel for Respondent No. 2. The balance amount of Rs.45 lakh is to be paid by the Applicant to Respondent No.2 as per the schedule annexed to the MoU. The MoU is taken on record and marked "X" for identification.

4. Respondent Nos.2 and 3 (the injured person) have filed separate affidavits dated 30th April 2019. In paragraph 6 of the said affidavits, both have given their no objection to quash the subject FIR against the Applicant.

5. Respondent Nos.2 and 3, both are personally present before the Court. On specific query made by us, they submitted that they have made the said affidavits on their own free will, without there being any pressure or undue influence. They have has further

confirmed that they have no objection for quashing the subject FIR against the Applicant.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the crime. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

7. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the subject FIR. Accordingly, application is allowed in terms of prayer clause (a). However, it is made clear that the quashment is subject realisation of cheques given by the Applicant to Respondent No. 2.

8. In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicant with the cost of

Rs.10,000/- [Rupees Ten thousand only], which shall be paid to **“Anandwan” Warora**, [payable in favour of “MAHAROGI SEWA SAMITI”], a non governmental organization espousing the cause of socially disadvantaged people by enhancing their livelihood capabilities through self-discovery and empowering them to contribute to the society. For the quashment to take effect, the Applicant shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]