

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5300 OF 2019**

Lajja Harshit Shah
V/s.

... Petitioner

State of Maharashtra and anr.

... Respondents

Mr.Ashok Mundargi, Sr. Advocate a/w. Mr. Ganesh Vaidya,
Mr.Rishikesh Bidkar, Mr. Ayush Jain i/b M/s. Hariani & Co. for
the Petitioner.

Dr. F.R. Shaikh, APP for the Respondent – State.

Mr. Satish Raut for Respondent No.2.

**CORAM : B.P. DHARMADHIKARI &
 N.R. BORKAR, JJ.
DATE : FEBRUARY 20, 2020.**

P.C.

1] On 13th January 2020, this Court had passed the following order:

“1] Petitioner who has been convicted only with fine for offence under Section 304(A), 279, 337, 338 of Indian Penal Code and under Section 134(a)(b) and 185 of Motor Vehicles Act, has appeared before this Court jointly with Respondent No.2 for quashing of proceedings arising out of vehicular accident resulting in death of Ms.Jyoti Vijay Singh.

2] Today consent Affidavits are filed by Respondent No.2/Informant Akash Singh who claims to be cousin of deceased Jyoti Singh, Uma Singh- who claims to be her mother and one Mahesh Vijay Singh who claims to be her brother, giving no objection.

3] There is also affidavit by Sau. Rukhsar Khan who claims to be cousin sister of Respondent No.2. All these relatives have given no objection. During hearing, we find that there was MACT proceeding, however, details of

the same are not on record.

4] Petitioner is seeking time of two weeks to place on record the details of MACT proceedings. List on 27th January, 2020."

2] Today, accordingly, parties are present. A copy of application for compensation under section 166 of Motor Vehicle Act filed before the Motor Accident Claims Tribunal, Greater Mumbai vide Application No. 1861 of 2015 is also produced. It shows that one Reena Vijay Singh, sister of deceased as applicant No.3. The consent affidavit of Reena Vijay Singh is also tendered today by respondent No.2. It is taken on record.

3] The consent affidavits of respondent No.2 Akash, other sister of deceased namely Rukhsar Khan, mother of deceased Uma Singh and brother of deceased Mahesh Singh are already on record.

4] The petitioner, a Medical Practitioner, is already convicted by 18th Metropolitan Magistrate Court, Girgaon, Mumbai for offence punishable under section 279, 337, 338, 304-A of I.P.C.

5] Accordingly, the fine amount has already been paid.

6] The MACT claim is also satisfied.

7] The appeals filed challenging the conviction, for enhancement of punishment by the State Government and also by the informant Akash Singh are pending.

8] Parties are present before this court and are jointly requesting for compounding of the matter and for quashing of criminal case.

9] Perusal of the judgment of conviction shows story of the informant that the vehicle driven by the petitioner came in speed from behind and gave dash to his motorcycle from backside. The Trial Court itself has found absence of any mark on backside of motorcycle to justify this conclusion. However, it has found that the front side left portion of Innova car made of fiber (front guard) had bent inside (inward).

10] It appears that the motorcycle on which the deceased was riding pillion had, after some impact, skidded and gone below another vehicle. The victim expired because of the lacerated liver injury.

11] Taking overall view of the matter, we are inclined to intervene in extraordinary jurisdiction.

12] Accepting joint request made and the consent affidavits, we make Rule absolute in terms of prayer clause (a), (b) and (c).

(N.R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)