

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 120 OF 2021

Ashwin Madhusudan Pillai.

...Applicants.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Aditya Mokashi, A. B. Seth and Tushar V. Dube for the applicants.

Ms. Geeta P. Mulekar, APP for the Respondent-State.

Mr. Samrat S. Ingle for complainant – Respondent No. 2.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.

Date : **August 31, 2021.**

P. C. :

1. Learned counsel appearing for the respective parties urged before the Court that the parties have arrived at a settlement. An affidavit is filed on behalf of Respondent No. 2 containing the terms of settlement agreed between the parties. The same is taken on record and marked "X" for identification.

2. The brief facts giving rise to the present application can be summarised as follow :

. On 3rd February 2017, Respondent No.2 who is an employee in a private limited company, namely, AMW Motors Limited, Kurla Mumbai left his house situated in Sector 36, village Kamothe, taluka Panvel and was proceeding to Pune. While he

had come near to a bus-stop situated in front of KLE College and was waiting for auto-rickshaw, a vehicle namely, two-wheeler vehicle bearing registration No.MH-47 J-8064 came in excessive speed and gave dash to Respondent No.2, causing minor and major injuries to Respondent No.2. Respondent No.2 was immediately shifted to MGM hospital, Kamothe. Medical treatment was provided to Respondent No.2. Respondent No.2 suffered a fracture. The FIR was lodged at Kalmboli Police Station. On conclusion of investigation, a charge-sheet came to be filed in the Court of JMFC, Panvel.

3. Learned counsel for the Applicant submitted before this Court that the Applicant is a young student who has completed his degree course and is desirous of prosecuting his further studies abroad. Accordingly, an application for further studies in foreign university has been made by the Applicant and the Applicant recently got information that he is selected in a foreign university for further studies. Learned counsel for the Applicant further submitted that the incident occurred on 3rd February 2017 was only an accident and there was no intention of the Applicant to cause any injury to Respondent No.2. Learned counsel for the Applicant then submitted that the Applicant disclosed all these facts to Respondent No.2 and better sense prevailed over Respondent No.2 . The parties have decided to put at rest all the misunderstandings and differences between them and Respondent No.2 considering the

fact that criminal case against the Applicant would only hamper his academic career and considering the fact that Respondent No.2 should not be a reason for blocking a bright future of the Applicant, Respondent No.2 has agreed upon to support the prayer of Applicant to quash the first information report and the consequential charge-sheet filed on conclusion of investigation against the Applicant. It is also submitted by learned counsel for the Applicant that the majority of offences levelled against the Applicant are compoundable offences.

4 Respondent No.2 is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the subject FIR and criminal proceeding initiated at his instance against the Applicant. Respondent No.2 further submitted that now his health is substantially recovered and he is not having any difficulty in movement due to the medical treatment provided to him.

5. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of FIR, 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 and criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

6. In the light of 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 and criminal proceeding.

7. Though the parties have settled the dispute between themselves, we cannot loose sight of the fact that the police machinery was put into motion on registration of the FIR and necessary steps were taken by the investigation agency. Therefore, we deem it appropriate to impose cost upon the Applicant. **Accordingly, application is allowed in terms of prayer clause (a).** In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicant with the cost of Rs.25,000/-, which shall be paid to the special fund created by the Bar Council of Maharashtra and Goa under the caption “**Covid-19 Fund**”, the details whereof are hereinbelow. 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 two weeks from today. The details of special fund created by the Bar Council of Maharashtra and Goa under the caption "Covid-19 Fund", are as under :

Bank Name	: Bank of India.
Branch name	: Mumbai (Main), Fort, Mumbai.
A/c name	: "Bar Council of Maharashtra and Goa Covid-19"
A/c No.	: 000110110013597
IFSC Code	: BKID0000001

8. All concerned to act upon the authenticated copy of this order issued by the Registry of this Court.

[N R. Borkar, J.]

[Prasanna B. Varale, J.]