

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2615 OF 2021

Sahil Lakshmanan ...Petitioner
vs.
Jayanand Salvi and Another ...Respondents

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Mr. Viral Babar, for the Petitioner
Mr. Malhar Kadam, for Respondent No. 1.
Mr. K.V. Saste, APP for the State.
Mr. Jayanand Janardhan Salvi, Respondent No. 1 present.

**CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.**

DATE : AUGUST 25, 2021

JUDGMENT:

1. Rule. Rule made returnable forthwith and, with the consent of the counsels for the parties, heard finally.

2. This petition under Article 226 of the Constitution of India and section 482 of Code of Criminal Procedure, 1973 is preferred to quash and set aside the C.R.No. 95 of 2021 registered with Khar police station, Mumbai for the offences punishable under section 279 and 337 of Indian Penal Code and under section 134(a) and (b) of Motor Vehicle Act, 1988 at the instance of respondent No. 1- first informant, on the basis of the settlement arrived at between the parties.

3. The gravamen of the indictment of the petitioner is that in the night intervening 1st and 2nd March, 2021 at about 00.45 hours while the respondent No. 1 was on his way to Khar railway station, in rickshaw bearing No. MH-02-EW-6178, a motor car bearing No. MH-03-DK-0601 came in a very high speed and collided with the auto rickshaw. On account of the impact, the respondent No.1 sustained injuries on his right leg. The petitioner, who was on the wheel the said car, drove it in a rash and negligent manner. The petitioner sped away without providing medical assistance to respondent No.1 and apprising the police about the accident. Hence, respondent No.1 lodged report at Khar police station leading to C.R.95 of 2021 for the aforesaid offence.

4. Mr. Babar, learned counsel for the petitioner and Mr. Malhar Kadam, learned counsel for Respondent No. 1, make a joint statement that during the pendency of the petition, the petitioner and respondent No. 1 have amicably resolved the dispute. The respondent No. 1 has no objection to quash the proceeding arising out of above numbered First Information Report. The respondent No. 1 has tendered an affidavit in support of the prayer for quashment.

5. The respondent No. 1 Jayanand Salvi appeared before the Court. He claimed that he has settled the dispute with the petitioner voluntarily. He has filed affidavit without any duress or coercion. In view of the settlement, he does not wish to prosecute the prosecution against the petitioner.

6. Para 2 of the affidavit of respondent No. 1 read as under:

I say that I have amicably settled the dispute with petitioner and I do not wish to pursue any legal proceedings against the petitioner in the subject matter.

7. In the backdrop of the aforesaid submission, statement and averments in the affidavit of respondent No. 1, we have perused the material on record. The learned APP has tendered a copy of the injury certificate. It reveals that the respondent No. 1 has suffered simple injury. The respondent No. 1 informed the Court that the injury has completely healed and he has not suffered any deformity or permanent disability or painful consequences of the said injury.

8. From the perusal of the material on record, it appears that the accident occurred in an unguarded moment. The learned

counsel for the petitioner submits that the petitioner has adequately compensated respondent No. 1 for the medical treatment and the loss of wages/income during the period respondent No. 1 was under treatment. The learned counsel further submitted that the petitioner would pay a sum of Rs. 25,000/- to the respondent No. 1 by way of additional compensation.

9. In the backdrop of the aforesaid settlement of the dispute between the petitioner and respondent No. 1, the continuation of the prosecution would be a futile exercise. It is very unlikely that respondent No. 1 would support the prosecution and it would end in conviction. On the contrary, the continuation of the prosecution, under such circumstances, would cause grave prejudice to the petitioner and respondent No. 1. It will put unnecessary burden on the criminal justice system. It would also amount to abuse of the process of the Court.

10. A profitable reference in this context can be made to the judgment of the Supreme Court in the case of ***Gian Singh vs. State of Punjab***¹, wherein a Three Judge Bench of the Supreme

¹ (2012) 10 Supreme Court Cases 303.

Court, considered the relative scope of the provisions contained in Section 482 and Section 320 of the Code and expounded the power of the High Court to quash the FIR or prosecution in exercise of its inherent jurisdiction, as under:

“61.But the criminal cases having overwhelmingly and predominately civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

(emphasis supplied)

11. In the instant case, we find that the resolution of the dispute between the petitioner and respondent No.1 is bonafide. To bolster up his bonafide, the petitioner has agreed to pay an additional amount of Rs. 25,000/- to respondent No. 1. Thus, in order to secure the ends of justice and prevent the abuse of the process of

the Court, we are inclined to allow the petition. Hence, the following order.

ORDER

- i) The petition stands allowed in terms of prayer clause (a) subject to payment of a sum of Rs. 25,000/- by the petitioner to respondent No. 1 through banking channel, within a period of one week from today.
- ii) Rule made absolute in the aforesaid terms.
- iii) All concerned to act on an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)