

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 384 OF 2021

Shlok Pankaj Chaturvedi	...Applicant
Versus	
The State of Maharashtra & ors.	...Respondents

Mr. Kushal Mor, for the Applicant.
Mrs. S. D. Shinde, APP for the State/Respondent no.1
Mr. Marmik Shah, for Respondent nos.2 and 3.
Respondent nos.2 and 3 are present through Video
Conferencing and interacted.

**CORAM: S. S. SHINDE &
N. J. JAMADAR, JJ**
DATED: 30th JUNE, 2021
(Through V.C.)

PC:-

1. This application under Section 482 of the Code of Criminal Procedure is filed to quash and set aside the prosecution, bearing CC No.2739/PS/2016 pending on the file of the learned Metropolitan Magistrate, 44th Court, Andheri, arising out of FIR No.100 of 2016 registered with Versova Police Station, for the offences punishable under Sections 279 and 338 of the Indian Penal Code, 1860 ("IPC") and Section 134(a) and (b) of the Motor Vehicles Act, 1988, in view of the settlement arrived at between the applicant – accused and respondent no.2 – first informant and respondent no.3 – the

victim.

2. The indictment against the applicant is that on 13th March, 2016 at about 7.00 am. while respondent nos.2 and 3 were on their routine morning walk, the applicant, who was at the wheel of car Honda Accord bearing registration No.MH 02/BY 4681, came from behind and gave a violent dash to respondent no.3. The applicant drove the car in a rash and negligent manner and fled away from the spot of accident without providing medical assistance to the victim and intimation to the police. Hence, respondent no.2 lodged report with the police for the offences punishable under Sections 279 and 338 of the IPC and Section 134 (a) and (b) of the Motor Vehicles Act, 1988. Post completion of investigation, report under Section 173 of the Code of Criminal Procedure ("the Code") is lodged against the applicant.

3. In the application, the applicant avers that after the impact, the applicant and his father approached the police on their own. The father of the applicant has incurred all the expenses for medical treatment of respondent no.3. The applicant and respondent nos.2 and 3 have thus decided to settle the matter and the applicant's father, at the desire of respondent nos.2 and 3, has agreed to donate a sum of

Rs.2,00,000/- in favour of 'Sant Shri Lalgebi Gaushala' and a demand draft has already been delivered.

4. Respondent no.3 has sworn an affidavit. Respondent no.3 is identified by Mr. Shah, Advocate for respondent nos.2 and 3. In the affidavit respondent no.3 has made following statements.

"1. I state that, my husband, the respondent no.2 had filed a complaint against the applicant with the Versova Police Station based on which an FIR bearing CR No.100 of 2016 came to be filed against the applicant above-named, under Section 279 and 338 of the IPC and Section 134 (a) and (b) of the Motor Vehicles Act, 1988, by the Versova Police Station. I state that I was admitted at Kokilaben Ambani Hospital following the alleged accident. I state that the Applicant's father had paid all the medical bills for my treatment while I was admitted at Kokilaben Ambani Hospital after the accident.

3. I state that during the pendency of the said case before the Magistrate Court, I have agreed to mutually settle the dispute amongst ourselves. I say that the applicant has further agreed to hand over a demand draft/cheque of Rs.2,00,000/- (Rupees Two lakhs only) to the respondent no.2, in favour of "Sant Shree Lalgebi Gaushala" bearing Account No.70390100011134, IFSC: BARBODBMANW, Bank of Baroda, Maninagar Branch, Gujarat through Beyond Imagination Franchise Pvt. Ltd, a private limited company incorporated under the Companies Act, 1956, in which the Applicant is a Director.

4. I say that in light of the fact that the dispute is now settled by me with the applicant, I have No Objection in the CR No.100 of 2016 of the Versova Police Station against the applicant is quashed and set aside."

5. Respondent no.3 – Kanta Manji Verat, the victim, and

respondent no.2 – Manji Kanji Verat, the first informant, appeared before the Court through Video Conference. We have interacted with both of them.

6. Respondent no.3 – victim asserted that she has decided to settle the matter on her volition and there is no coercion or duress. Since the father of the applicant had incurred the expenses of her treatment and has also made a donation of Rs.2,00,000/-, to the trust, at her desire, respondent no.3 does not want to prosecute the petition any more. The first informant also reiterated his desire not to prosecute the petitioner.

7. From the perusal of the report under Section 173 of the Code it seems that the impact occurred in an unguarded moment. The parties have resolved to bury the hatchet. It seems that the applicant and his father have made a *bona fide* effort to compensate respondent no.3 for the injuries suffered in the accident and the treatment incurred for the same. In this view of the matter, with the settlement of the dispute, there is a very bleak possibility of the prosecution ending in a conviction. The continuation of the prosecution, on the other hand, would cause serious prejudice to the parties, especially, the applicant, who is a young boy, and reportedly admitted to

pursue a course in a prestigious foreign institution. The continuation of the prosecution, in the circumstances of the case, may amount to abuse of the process of the Court. Thus, in order to secure the ends of justice and prevent the abuse of the process of the Court, we are persuaded to quash the prosecution.

8. A useful reference in this context can be made to the judgment of the Supreme Court in the case of *Gian Singh vs. State of Punjab and another*¹, wherein the Supreme Court has observed as under;

“61..... the criminal cases having overwhelmingly and predominatingly 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 offence 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, the High Court may quash the 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 the criminal case would put the 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. It is further held that, as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.”

1 2012 (10) SCC 303

9. The aforesaid pronouncement, in our view, governs to the facts of the instant case with equal force.

10. Hence the following order:

: ORDER :

The application stands allowed in terms of prayer Clause (a), which reads as under;

(a) This Hon'ble Court be pleased to quash FIR bearing CR No.100 of 2016 registered with the Versova Police under Sections 279 and 338 of the Indian Penal Code, 1860 and Section 134 (a) and (b) of the Motor Vehicles Act, 1988 and the consequent charge sheet vide CC No.2739/PS/2016 pending on the file of 44th Metropolitan Magistrate's Court, Andheri, against the Applicant herein on such terms and conditions as this Hon'ble Court may deem fit and proper.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]