

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.412 OF 2019

Prajesh Prakash Patel
aged 31 years, adult,
residing at 303, B Wing
Versoville Co-operative Housing Society Ltd.,
N. Datta Marg, Andheri (W),
Mumbai 400 053

... Applicant

Vs.

1. State of Maharashtra
(D.N. Nagar Police Station)

2. Krupa Deepak Thakkar
age 28 years, Adult,
residing at 305B, Vikki Apartment,
P.Balu Marg, Prabhadevi, Mumbai – 400 025

... Respondents

Ms.Sonali Kochar for the Applicant

Mr.Deepak Thakare, Public Prosecutor with Ms.A.S. Pai, APP, for
Respondent – State

Ms.Nishtha Malik for Respondent No.2

Ms.Krupa Sarup, Respondent No.2 – present through V.C.

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

DATED: JUNE 11, 2021

ORAL JUDGMENT (PER N.J. JAMADAR, J.):

1. Rule. Rule made returnable forthwith and with the consent of the learned Counsels appearing for the parties heard finally.
2. The applicant, who is being prosecuted for the offences punishable under sections 354 and 504 of the Indian Penal Code, 1860 (for short, "Penal Code"), has preferred this Criminal Application to quash the prosecution being C.C. No.2086/PW of 2015, arising out C.R. No.330 of 2014, lodged by Ms.Krupa Deepak Thakkar, respondent No.2 herein.
3. The applicant asserts that on the date of occurrence, while he was waiting at Linking Road, Andheri (West) signal, a car bearing Registration No.MH-01-AX-8063 came from behind and gave a dash to his car bearing No.GJ-23-AN-1088. Respondent No.2 was at the wheel of the said car. An altercation ensued between the petitioner and respondent No.2. Eventually, Respondent No.2 lodged a report with D.N. Nagar police station, bearing C.R. No.330 of 2014, for the offences punishable under sections 354 and 504 of the Penal Code. The applicant asserts that the petitioner had neither insulted Respondent No.2 nor attempted to outrage her modesty as alleged. No offence is prima

facie made out.

4. Post completion of investigation, chargesheet has been lodged before the jurisdictional Magistrate. The petitioner preferred an application for discharge (exhibit 3). The learned Magistrate, 10th Court, Andheri was, however, persuaded to reject the application. Hence, this application.

5. Respondent No.2 has appeared in response to the notice. Respondent No.2 has sworn an affidavit to the effect that the FIR was lodged out of misconception of facts and the petitioner did not intend to outrage her modesty. In the hindsight, she now realised that the conduct attributed to the petitioner did not amount to outraging her modesty.

6. Paragraphs 7 to 9 of the affidavit of the first informant – Respondent No.2 read as under:

“7) I submit, state and believe that actions and words of the Petitioner were outburst of anger but not with the intention to outrage my modesty. I had felt emotionally disturbed when the incident had occurred but in hindsight, I realize that strictly speaking it does not amount to outraging my modesty. After receiving copy of this application, the Petitioner and I have had an amicable non-monetary settlement and having communicated our minds to each other there are no further grudges amongst us.

8) I say that I am giving a No objection to the present petition out of my free will and consent as I have no desire to pursue the Complaint any further. I realize that there could have been a miscommunication or misunderstanding while making the said Complaint.

9) In view of the above, I state that I have no objection if the aforesaid Original Complainant in C.R. No.330 of 2014 before the D.N. Nagar P.S. is quashed and set aside by this Hon'ble Court."

7. Respondent No.2 is present through video conference. We have interacted with her. Respondent No.2 admits the correctness of the assertions in the affidavit. She claims that she has filed the affidavit on her own volition and there is no duress. Respondent No.2 submits that she does not desire to prosecute the petitioner any further. She has realised that the incident had occurred at the spur of the moment in a road rage and the petitioner had no intention to outrage her modesty.

8. In view of the aforesaid affirmation and the statements before the Court, we have perused the material on record including the report under section 173 of the Code of Criminal Procedure, to satisfy ourselves about the justifiability of the prayer of quashing the prosecution. From the perusal of the allegations in the First Information Report, it becomes abundantly clear that the vehicular

accident was the genesis of the occurrence. Respondent No.2 and the petitioner had not known each other from before. On account of the accident there was an altercation, probably on the aspect as to who was at fault. The averments in the First Information Report do not, prima facie, indicate that the petitioner intended to outrage the modesty of respondent No.2.

9. It is trite that in exercise of the powers under section 482 of the Code of Criminal Procedure, if the High Court comes to the conclusion that further continuation of the prosecution would not serve any fruitful purpose, it would be justified in quashing the prosecution in order to secure the ends of justice and prevent an abuse of the process of Court. In the case at hand, on a careful perusal of the record, we find that the essential elements of the offences are not prima facie made out. The facts that the vehicular accident was the genesis of the occurrence and the report came to be lodged due to misconception of facts and intent of the accused-applicant, are further fortified by the assertions of the first informant in the affidavit.

10. In this view of the matter, we are inclined to quash the proceedings being C.C. No.2086/PW of 2015, though chargesheet

has been filed and the learned Magistrate was persuaded to reject the application. Hence, the following order:

ORDER

The Petition is allowed.

The prosecution, being C.C. No.2086/PW of 2015, arising out of C.R. No.330 of 2014, pending on the file of the Metropolitan Magistrate, 10th Court at Andheri stands quashed.

11. Rule made absolute to the above extent and the Petition stands disposed off accordingly.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)