

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2802 OF 2021**

Gaurav Arora
An Adult, Aged : 40 years, Occu.
Business, Indian Inhabitant, Residing at
N-601, RNA Regency Park, Opp.
Maharashtra Nagar, Off. Linking Road,
Kandivali West, Mumbai 400 067

...Petitioner
(Ori.Accused)

Versus

1. State of Maharashtra
Through the Office of the Government
Public Prosecutors, High Court, PWD
Building, Mumbai 400 032
(Vile Parle Police Station, Mumbai)
2. Eshaan Farhan Patel
of Mumbai, an Adult, Age : 20 years,
Occ.: Student, Indian Inhabitant,
Residing at Zehra Villa, 1st Floor, near
Commissioner Office, Sanjana Lane,
Carter Road, Bandra West,
Mumbai 400 050.

...Respondents
(Ori.Complainants)

Mr. Vivek Kantawala, a/w Mr. Amey Patil, Mr. Shanay Bafna,
Mr. Vivek M. Sharma, i/b M/s. Vivek Kantawala & Co.,
for the Petitioner.

Mr. Aditya Desai, for Respondent no.2.

Respondent no.2 present and interacted.

Mr. K. V. Saste, APP for the State/Respondent no.1.

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

RESERVED ON: 10th AUGUST, 2021.
PRONOUNCED ON: 23rd AUGUST, 2021.

JUDGMENT:- PER : N. J. JAMADAR, J.

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

2. This petition is filed for the relief of quashing and setting aside FIR No.121 of 2021, registered at Vile Parle Police Station, Mumbai, for the offences punishable under Sections 279 and 337 of the Indian Penal Code, 1860 ("the Penal Code") and Sections 184 and 185 of the Motor Vehicles Act, 1988, on the basis of the amicable resolution of the dispute between the petitioner and the first informant - respondent no.2.

3. The petition arises in the backdrop of the following facts:

(a) On 3rd April, 2021, at about 2.45 pm. while the first informant was riding a Scooty bearing registration No. MH-02/ET-1208, on the left flank of Western express highway, Vile Parle (E), Mumbai, on his way to Malad (W), a car bearing registration No. MH-47/AB-1825, driven by the petitioner allegedly came from behind in a high speed and gave a violent dash to the first informant. Due to the collision, the first informant sustained injuries. He was shifted to hospital. It transpired that the petitioner was under the influence of intoxicants. Hence, the crime was registered for the aforesaid offences.

4. The petitioner has approached the Court with the assertions that the dispute between the petitioner and respondent no.2 has been amicably resolved. The learned Counsel for the petitioner and the learned Counsel for respondent no.2 make a joint statement that the parties have amicably settled the dispute. Respondent no.2 Mr. Eshaan Patel has sworn an Affidavit. The mother of respondent no.2 Dr Mrs. Asma Farhan Patel has also sworn an affidavit.

5. Respondent no.2 appeared before the Court. We have interacted with respondent no.2. He stated that he has voluntarily settled the dispute with the petitioner and filed the Affidavit out of his own volition. There is no coercion or duress. In terms of the settlement between the parties, the petitioner has paid a sum of Rs.1,50,000/- towards full and final settlement of the claim. The expenses of the medical treatment were also borne by the petitioner.

6. Paragraph 2 of the Affidavit of respondent no.2 reads as under:

“2. Mr. Gaurav Arora has paid an amount of Rs.1,50,000/- (Rupees one lakh fifty thousand only) as a full and final amount towards my current and further medical expenses caused due to the accident and for purchase of a new Honda Dio Scooter as instructed by me to my mother Dr. Mrs. Asma Farhan Patel. In the result of which I do not wish to pursue the F.I.R. being F.I.R. No.121 of 2021 registered with the Vile Parle Police Station as I do not have any complaint against Mr. Gaurav Arora. In view of the above, I say that I do not

wish to pursue the said F.I.R. and therefore agree to give my consent unconditionally for quashing the F.I.R. No.121 of 2021 pending with the Vile Parle Police Station, as the matter stands resolved between myself and Mr. Gaurav Arora. As there was no intent that was behind the accident, continuing the proceedings would be unnecessary burden upon the Hon'ble Court and the executive staff as well as the Police Station and I do not pursue the prolonged litigation."

7. In the light of the aforesaid submissions, statements made before the Court, and averments in the Affidavit, we have perused allegations in the FIR. It seems that the accident occurred on account of error of judgment. The parties have amicably resolved the dispute in its entirety. No fruitful purpose would be served by keeping the proceeding alive. In view of the settlement, it is very unlikely that respondent no.2 would support the prosecution, and the chances of the prosecution ending in conviction thus appear remote and bleak. Continuation of prosecution, on the other hand, would cause grave prejudice not only to the petitioner but also to the first informant, who is a 20 year old boy. It would amount to abuse of the process of the Court as well.

8. An 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;

1 2012 (10) SCC 303.

“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.”

9. The aforesaid pronouncement applies with equal force to the facts of the instant case. Thus, in order to secure the ends of justice and to prevent the abuse of the process of the Court, we are inclined to allow the petition. However, we deem it appropriate to direct the petitioner to pay costs, which may utilize for a worthy cause.

10. Hence the following order:

: ORDER :

The petition stands allowed in terms of prayer clause (a), subject to deposit of costs of Rs.15,000/- by the petitioner in the below mentioned account of the Children Aid Society, Mumbai, within a period of one week.

On deposit of costs, the Children Aid Society shall immediately transfer the said amount of costs for betterment of the children to the New and Additional Children's Home, Mankhurd, Mumbai.

Bank Name : UCO Bank.
Branch Name : Matunga, Mumbai.
A/c. Name : "Children Aid Soc Donation"
A/c. No. : 02370100005612
IFSC Code : UCBA0000237

Rule made absolute in aforesaid terms.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]