

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2212 OF 2021

Raunak Chaudhuri

: Petitioner.

Versus

1. State of Maharashtra
and anr.

: Respondents.

Mr. Sharian Mukherji for the Petitioner.

Mr. K. V. Saste, APP for the Respondent/State.

Mr. Gopal Satam for Respondent No.2.

Petitioner and Respondent No.2 present through Video Conference.

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

DATE : 19th JUNE 2021

P.C.

1. The Petitioner, by this Petition under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973, seeks relief of quashing of the prosecution, being Summons Case No.500235/PW/2021, arising out of FIR-CR No.10 of 2021 registered at Dadar Police Station, Mumbai on 12th January 2021 for the offences punishable under Sections 279 and 338 of the Indian Penal Code, 1860 and Sections 134(a) and (b) of the Motor Vehicles Act, 1988, pending on the file of learned 5th Metropolitan Magistrate Court, Bhoiwada, Dadar.

2. The background facts giving rise to the present Petition can be stated, in

brief, as under :-

(a) On 11th January 2021 at about 5.30 pm, while Mrs. Gayatri Gajendra Kondvilkar – the First Informant/Respondent No.2 herein was crossing the road in front of Shardashram Bus Stop, Bhavani Shankar Road, Dadar (West), Mumbai-28, the Petitioner allegedly drove a Maruti Baleno Car bearing Registration No.MH-01-DP-6352 in a rash and negligent manner and gave a violent dash to Respondent No.2, on account of which, Respondent No.2 suffered a grievous injury to her right knee. The Petitioner allegedly fled away from the spot without providing medical assistance to Respondent and giving intimation to the police. Hence crime was registered at Dadar Police Station vide CR No.10 of 2021 for the offences punishable under Sections 279 and 338 of the Indian Penal Code and Sections 134(a) and (b) of the Motor Vehicles Act. Post investigation charge-sheet has been lodged.

3. The Petitioner asserts that, during intervening period, the Petitioner and Respondent No.2 have amicably resolved the matter. The Petitioner's mother has incurred all expenses of the medical treatment of Respondent No.2. The Petitioner has also agreed to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) to Respondent No.2 as a one time full and final

reimbursement towards medical treatment and expenses. Hence this petition for quashing the aforesaid prosecution.

4. Respondent No.2 has filed an affidavit. Respondent No.2 has made, *inter-alia*, the following statements in Paragraph Nos.6 to 9 of her affidavit :-

“6 I say that, I am filing this Consent Affidavit in this Writ Petition filed by the Petitioner and hereby give consent to quash the above FIR – CR No.10/2021 of Dadar PS and Summons Case No.500235/PW/2021 pending on the file and records of the Ld. 05th MM Court, Bhoiwada, Dadar, Mumbai against the Petitioner. I have also gone through this Affidavit and I acknowledge and confirm the contents of the same.

7 I say that, I had filed the said FIR vide CR No.10/2021 at Dadar Police Station. The Petitioner through his mother has taken care of all medical necessities and expenses incurred by me on account of the said incident and has agreed to reimburse me. I am therefore filing this preset Consent Affidavit and giving my consent to quash the above mentioned proceedings against the Petitioner.

8 I say that, I have agreed to mutually resolve my dispute with the Petitioner through his mother with the help of intervention of my family and that, the mother of the Petitioner (i.e. the owner/in-charge of the car) has agreed to reimburse me Rs.2.5 lacs (Rupees Two and half lacs only) as a one-time full and final reimbursement towards all my medical treatment and expenses, which is to be handed over by a Demand Draft before this Hon’ble Bombay High Court during the bearing of the present Writ Petition. I hereby give consent to quash all the above mentioned proceedings against the Petitioner.

9 Since the matter has been amicably settled, I have no objection if the present Writ Petition is allowed and the proceedings FIR vide CR No.10/2021 of Dadar PS and the proceedings vide Summons Case vide No.500235/PW/2021 pending on the file and records of the Ld. 05th Metropolitan Magistrate Court, Bhoiwada, Dadar are quashed. I say that in

view of thereof the above proceedings may kindly be quashed.”

5. The Petitioner and Respondent No.2 are present before the Court through Video Conference. Mr. Gopal Satam, the learned counsel for Respondent No.2 identified Respondent No.2 – Gayatri Gajendra Kondvilkar. We have interacted with Respondent No.2, in the presence of her son, through Video Conference.

6. Respondent No.2 submits that she has decided to settle the matter, on her own volition, and there is no coercion and duress. Respondent No.2 further submits that she is agreeable to accept the said amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) towards her medical treatment and expenses. A Demand Draft for the said amount has been tendered to her.

7. In the backdrop of the aforesaid statements in the affidavit and before this Court, we have perused the material on record. It appears that the Petitioner is a young boy in his early twenties. It seems that the impact occurred at a crowded place in an unguarded moment. Evidently, the offences are not of serious nature.

8. The desire of Respondent No.2 to settle the matter appears to be voluntary and without any pressure and/or coercion. In view of the settlement of the matter, the possibility of the prosecution resulting in conviction is extremely remote and bleak. No fruitful purpose would be achieved by continuing the prosecution. On the contrary, the continuation of the prosecution would put the parties, particularly the accused, who is a young boy, to great prejudice. In this view of the matter, in order to prevent the abuse of the process of Court and to secure the ends of justice, in our view, it would be appropriate to quash and set aside the prosecution.

9. A useful reference can be made to the judgment of the Supreme Court in the case of *Gian Singh Versus State of Punjab and Another*¹, wherein the Supreme Court observed that,

“61But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on 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 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

¹ 2012 (10) SCC 303

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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

10. For the foregoing reasons, we are inclined to allow the Petition, subject to realization of the amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) covered by the Demand Draft, which is stated to be received by Respondent No.2.

11. The Petition thus stands allowed, subject to realization of the aforesaid amount, in terms of prayer clause (b) which reads as under :-

“(b) To quash the FIR vide CR No.10/2021 of Dadar Police Station dated 12/01/2021 and the Charge Sheet vide Summons Case No.500235/PW/2021 dated 10/02/2021 pending on the records of the Ld. 05th Metropolitan Magistrate Court, Boiwada, Dadar, Mumbai arising out of the said FIR.”

12. The Petition stands disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]