

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 571 OF 2021**

Vivek Eknath Gorivale Age : 28 years
residing at Sunder Nagar, Balanigam
Road, Room No.108, Colaba Market
Mumbai 400 005.

...Applicant

Versus

1. State of Maharashtra
Through the Senior Inspector of Police,
Mandanayad Police Station, District
Ratnagiri, Maharashtra – 413 624
2. Mahendra Narayan Sakpal
Age : 53, Occu. : Service
R/o. Suryodaya Co-operative Housing
Society, A Wing, Room No.303, Kurla
(West), Mumbai.

...Respondents

Ms. Prachi Khandge, i/b M. P. Vashi Associates, for the
Applicant.

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

Mr. Digvijay Patil, i/b Mr. N. V. Bhutekar, for Respondent no.2.
Respondent no.2 present in Court.

**CORAM: S. S. SHINDE &
N. J. JAMADAR, JJ.
DATED: 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 application under Section 482 of the Code of Criminal
Procedure, ("the Code") is preferred to quash the First

Information Report No.26/2018, registered at Madangad Police Station, at the instance of respondent no.2, for the offences punishable under Section 279, 337 and 338 of the Indian Penal Code, ("the Penal Code") and Section 184 of the Motor Vehicles Act, 1988, on the basis of the settlement arrived at between the parties.

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

(a) On 12th May, 2018, at about 7.30 am. while respondent no.2 was on his way to Kulra from Dapoli in his Maruti Zen car bearing registration no. MH-04/BK-3829, near village Dhatroli, the applicant came in a high speed on a motorcycle bearing registration No.MH-01/CE-7044 and gave dash to the car. On account of the collision, the applicant sustained injuries and the car was damaged. Hence, respondent no.2 lodged report. On the basis of the said report crime was registered at CR No.26/2018 leading to Summary Criminal Case No.326/2018.

4. The applicant has approached the Court with the assertions that during the pendency of the above-numbered case the applicant and respondent no.2 have arrived at an amicable settlement and the applicant has paid a sum of

Rs.10,000/-, to respondent no.2, for the minor damage to the car of respondent no.2 in the said accident.

5. Ms. Khandge, the learned Counsel for the applicant and Mr. Patil, the learned Counsel for respondent no.2, make a joint statement that the applicant and respondent no.2 have amicably resolved the dispute and respondent no.2 has filed an affidavit. In view of the said statement the learned Counsels submit that the proceedings arising out CR No.26/2018 deserves to be quashed and set aside.

6. The learned Counsel has tendered the affidavit of respondent no.2. Mr. Mahendra Sakpal, respondent no.2 appeared before the Court. He stated that he has settled the dispute with the applicant out of his own volition and voluntarily filed the affidavit. He admitted the contents of the affidavit and execution thereof. He is identified by Mr. Patil, the learned Counsel for respondent no.2.

7. Paragraphs 2 to 4 of the affidavit read as under:

“2. I say that, I am the victim as well as the first informant in the CR No.26 of 2018. I have registered FIR bearing No.26 of 2018 dated 14/05/2018 for the offences punishable under Sections 279, 337 and 338 of Indian Penal Code and Section 184 of Motor Vehicles Act for the incident of accident caused upon me.

3. I say that, the dispute between me and the accused have been amicably settled through a mediator. I hereby confirm that, the dispute between me and the Applicant has been already settled and the Applicant has paid me the

compensation of Rs.10,000/- for the damages caused to my car. I do not have any complaints against the Applicant.

4. I say that, I did not suffer any physical injury in the said incident. Therefore, I have no objection and I hereby consent for quashing of the FIR bearing No.26 of 2018 and consecutive Chargesheet and SCC No.326 of 2018.”

8. It appears that the impact occurred in an unguarded moment. Neither Respondent no.2 nor any other occupant of the car has suffered any injury. There was a minor damage to the car. The parties have resolved the dispute by quantifying the costs for the said damage to the car.

9. In view of the settlement arrived at between the parties, which appeared to be free from any coercion or duress, the continuation of the Summary Criminal Case No.326 of 2018 would not serve any fruitful purpose. It is very unlikely that respondent no.2 would support the prosecution and it would end in a conviction. On the contrary, the continuation of the prosecution would cause serious prejudice not only to the applicant but to respondent no.2, as well. It would also amount to abuse of the process of the Court and put unnecessary burden on the criminal justice system.

10. 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

¹2012 (10) SCC 303

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.”

11. The aforesaid pronouncement applies with equal force to the facts of the instant case. The accident seems to have occurred on account of an error of judgment. No serious injury was caused to any person. 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.

12. Hence the following order:

: ORDER :

- (i) The application stands allowed.
- (ii) Summary Criminal Case No.326 of 2018 pending on

the file of the learned Magistrate, Dhakadi District, Ratnagiri, arising out of FIR No.26 of 2018, registered with Mandangad Police Station, District Ratnagiri, stands quashed and set aside.

Rule made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]