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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1617 OF 2019

Ashmeet Uday Balse .. Applicant
v/s.
The State of Maharashtra And Anr. .. Respondents

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Mr. Prashant Goyal, for the Applicant.

Mrs. A.S. Pai, P.P., a/w. Mr. K.V. Saste, APP, for Respondent No.1.

Mr. Hemant P. Ingle, i/b. Sugat P. Ingle, for Respondent No.2.

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CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.

DATE : 16 NOVEMBER 2021.

P.C:-

This application is filed under Section 482 of the Code of Criminal Procedure seeking to quash FIR No.364 of 2019 registered under Sections 279, 338 of the Indian Penal Code r/w. Section 134(a) (b) of the Motor Vehicles Act, 1988 registered with the Bangur Nagar Police Station, Mumbai.

2. Respondent No.2 filed an FIR on 18 October 2019, wherein he stated that his daughter Aliya studies in 1st Standard in the Municipal School. When she was crossing the road, a vehicle driven by the Applicant dashed against her and she received injuries on her

hands and legs. According to Respondent No.2, the Applicant did not stop. Thereafter, brother of Respondent No.2 brought the child home and she was taken to Dr. Babasaheb Ambedkar Hospital, Kandivali. The application is filed for quashing of the FIR on the premise that Respondent No.2 is willing to withdraw the complaint and quash the FIR, as the Applicant is ready to pay monetary compensation towards the medical expenses and such other expenses and compensation. An affidavit is filed by Respondent No.2, wherein he has stated that the injuries suffered by the child were minor injuries and the compensation will take care of the medical bills and he has filed this affidavit without any coercion. The learned Counsel for Respondent No.2 states that Respondent No.2 is present in Court and has confirmed the statements made in the affidavit.

3. An additional affidavit is filed by Respondent No.2 on 20 August 2021, wherein the medical papers of the child have been annexed. The observation of the Medical Officer of Municipal Corporation of Greater Mumbai is that the child is clinically fit for performing daily routine activities. A certificate to that effect is given, which is attached to the affidavit.

4. The child Aliya is present in the Court with her father. From her appearance and movements she appears to be a normal child. Upon interacting with the child it is informed that she does not suffer

from any pain or any mental trauma. Perhaps by passage of time the child has got over the fears, if any.

5. The incident was indeed unfortunate. But there is no implication of any malice or intention. The Apex Court in the case of *Gian Singh vs. State of Punjab And Another*¹ has held that if the incident does not have ramification on the society in general, the FIR of a cognizable offence can be quashed by consent. Of course, each case will turn on its peculiar facts. Considering the facts presented before us, as we have narrated above, we are of the opinion that putting a quietus to the matter by quashing the FIR would serve the ends of justice. The child can focus on her studies, the expenses incurred are also taken care of. The Petitioner has also shown remorse.

6. In the light of the same, the case for quashing of FIR, by consent, is made out. The learned Counsel for Respondent No.2 has stated that the demand draft of the aggregate amount of Rs.1,30,000/- is being tendered. Accordingly, the application is allowed in terms of prayer clause (a). The Applicant will deposit an amount of Rs.25,000/- towards costs to the Police Welfare Fund within a period of four weeks from today. The quashing of the FIR is conditional upon deposit of these costs.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

1 (2012) 10 Supreme Court Cases 303