

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.154 OF 2022

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Riya Savita Sharma

....Petitioner

Versus

The State of Maharashtra & Anr.

....Respondents

Mr. Tejas Shamkant Mahamuni for the Petitioner.

Smt. Sangeeta Shinde, APP for Respondent-State.

Mr. Indrajeet Hingane for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 15th FEBRUARY, 2022.

P.C. :

1. Heard Mr.Mahamuni, learned counsel for the petitioner, Mr.Hingane, learned counsel for Respondent No.2 and Ms.Shinde, learned APP for the State.

2. The petitioner has approached this Court for seeking quashment of FIR bearing C.R.No.335/2019 registered on 24.08.2019 with Mulund Police Station for the offences punishable u/s.279 & 338 of the Indian Penal Code, 1860 as well as proceeding bearing Case No.PS/0001191/2019 arising out of the said FIR pending before the learned Metropolitan Magistrate 27th Court, Mulund, Mumbai against the petitioner.

3. The few facts giving rise to the petition can be summarized as follows:-

Respondent No.2–Motiram Valavi has lodged a FIR bearing C.R.No.335 of 2019 on 24.08.2019 against the petitioner. It reveals from the FIR that on 24.08.2019 at about 6.30 p.m., Respondent No.2 - the Assistant Sub-Inspector was on traffic control duty at Mulund (W). Due to festival of Dahi Handi, the rush of people was increased, hence, Respondent No.2 alongwith other police personnel started managing the rush and controlling the vehicular traffic. At that time, one motor car bearing no.MH-04-KD-1052 approached in their direction in high speed. Respondent No.2 gave a signal to the petitioner to stop the motor car, but the petitioner could not control his vehicle and dashed to Respondent No.2. Therefore, Respondent No.2 sustained injuries to the ankle of his right leg. The other police personnel who was on duty with Respondent No.2 took Respondent No.2 to the Fortis Hospital, Bhandup (W), Mumbai where he was operated. It further reveals that the ill-fated vehicle was driven by the petitioner. Hence, Respondent No.2 lodged the said FIR against the petitioner.

4. During the pendency of this petition and investigation, Respondent No.2 had filed an application bearing MAC No.1810 of 2019 for Motor Accident Compensation Claim u/s.166 of the Motor Vehicles Act, 1988 for Rs.1,00,000/- (Rupees One Lacs Only) against the petitioner and the insurer SBI General Insurance Co.Ltd., wherein the parties have settled their disputes in terms of consent terms. The consent terms are taken on record at Exhibit B. I/c. Member, C.R.No.2, MACT, Mumbai has allowed the claim in pursuance of settlement arrived between the parties.

5. Affidavit-in-reply in support of the consent terms is also filed by

Respondent No.2 in this Court on 28.11.2022. It is stated in the affidavit in reply that Respondent No.2 is having no objection if the FIR in C.R.No.I-335/2019 dated 24.08.2019 with Mulund Police Station for offence u/s.279 & 338 of the Indian Penal Code, 1860 as well as proceeding bearing Case No.PS/0001191/2019 arising out of the said FIR pending before the learned Metropolitan Magistrate 27th Court, Mulund, Mumbai against the petitioner is quashed. It is also stated that the present affidavit in reply is filed by Respondent No.2 with his own wish and will without there being any kind of force, coercion and/or misrepresentation.

6. On a specific query put to Respondent No.2 he reiterates that on his own will and wish the affidavit in reply is filed. As such he is not raising any objection in quashing the FIR and proceedings against the petitioner.

7. Learned counsel for the petitioner relied on the observation of the Apex Court in the case of *Gian Singh Vs. State of Punjab & Anr., reported in 2012(10) SCC 303*.

8. Considering the above facts, we are of the opinion that the learned counsel for the petitioner has made out a case for allowing the petition. Accordingly, the petition is allowed in terms of prayer clause (a) & (b) and disposed of accordingly.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)