

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

CRIMINAL APPLICATION NO.172 OF 2022

Mihir Prakash Parab	...	Applicant
Versus		
State of Maharashtra		
And Another	...	Respondents

Mr. Pravin G. Pillay for the Applicant.
Mr. J.P. Yagnik, APP for Respondent No.1.
Ms. Saeeda Shaikh for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 14 MARCH, 2022

P. C. :

. Heard Mr. Pillay, learned Counsel for the Applicant. Mr. Yagnik, learned APP for the State and Ms. Shaikh, learned Counsel for Respondent No.2. The Applicant and Respondent No.2 are present in this Court.

2 The Applicant is approaching this Court with principal prayer for quashment of the FIR being C.R. no.421/2019 dated 20 July 2019 and the case arising out the said CR, being Case No.3972/PW/2019 pending before the Learned Metropolitan Magistrate's 26th Court at Borivali qua the Applicant, though it is not specifically stated in the prayer clauses. Perusal of the materials placed on record reveals that Respondent No.2 approached Borivali Police Station on 20 July 2019 referring to the incident of the earlier date, i.e. 19 July 2019. There is reference of two persons in the complaint report, namely, Mr. Smith and Mr. Jay Reddy and further reference to unknown person. It seems that in the process of

investigation, supplementary statement of Respondent No.2 recorded on 22 July 2019 and in the said supplementary statement, Respondent No.2 states that on receipt of a phone from the official of the Police Station, he attended the Police Station and identified the Applicant as one of the offender accused persons, and in the further inquiry, the identity of the Applicant was disclosed.

3 Learned Counsel for the Applicant submitted that no proper procedure of carrying out of an identification parade so as to establish the identity of the Applicant is followed. Though he is not pressing the Application on merits, the failure to follow the procedure is one of the serious *lacunas* in the matter, is the submission of the learned Counsel for the Applicant. Our attention is invited to an affidavit on behalf of Respondent No.2. It is stated in the affidavit that as dispute between Respondent No.2 and the Applicant is amicably settled, Respondent No.2 is not desirous to pursue matter and prosecute the Applicant. It is also stated in the affidavit that Respondent No.2 is having no objection if FIR is quashed against the Applicant and consent of Respondent No.2 is voluntary and is at his free will. Learned Counsel for the Applicant submitted that the Applicant is a young boy and recently he has completed his academic course, i.e. Degree in Commerce stream. It is also submitted by learned Counsel for the Applicant in the recent past the father of the Applicant, who was Railway employee expired and as per the policy of the Department, the Applicant is hopeful of getting some job in Railway Department on the basis of the policy of appointment on compassionate ground. It is also submitted by learned Counsel for the Applicant that if the Applicant is successful in getting job, his employment would held his family and he can support his family by lawful means and

the proceedings against him pending as rider in his future prospect. As such, the Applicant is before this Court for quashing the report and the proceedings.

4 Learned Counsel for the Applicant, on instructions, submitted that though there are no criminal antecedents so as to discredit the Applicant, but the Applicant was found in company of other accused persons, who are either history sheeters or having criminal antecedents.

5 Considering the above referred facts, we are of the opinion that a case is made out by learned Counsel for the Applicant for allowing the Application. At the same time, we also deem it proper to allow the Application, subject to certain conditions being imposed upon the Applicant, so as to prevent him from indulging in illegal acts in future.

6 Accordingly, the Application is allowed in terms of prayer clause - (b), subject to the Applicant attending and extending his positive co-operation to the Police Authority in the work of Mohalla Committee, particularly, Mohalla Committee in the jurisdiction of Borivali Police Station area on periodical basis. Applicant to attend Mohalla Committee meeting on each 15th and 30th day of the month till the Applicant gets employment and in case the Applicant is successful in securing job, the Applicant to attend Mohalla Committee once in a month and to obtain certificate of his attendance duly signed by Police Station Officer or the Police Station In-charge and to submit this certificate in the office. This exercise to be undertaken by the Applicant for a period of six months from the date of this Order.