

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.187 OF 2022

Nayad Rohinton Wadia. ... Applicant
Vs.
The State of Maharashtra And Anr. ... Respondents

Mr. Gul Atmaram Madnani – Advocate for the Applicant.
Mr. Manish M. Pathak – Advocate for Respondent No.2.
Ms. M. H. Mhatre – APP for Respondent-State.

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

DATE : 14th MARCH, 2022

P.C. :

1. This is an Application for quashing by the accused person on the basis of settlement of dispute with the victim. Victim is respondent No.2 who is the husband of the deceased Zeenath Banu. She expired on 19.02.2021 while undergoing treatment in Sion Hospital, Mumbai. While passing through S. V. Road, Mahim (w) at about 22.30 to 23.15 hours on 16.02.2021 she was dashed by an unknown Taxi driver. As a result she was admitted in Sion Hospital. Her husband/Respondent No.2 was informed about the accident and he lodged complaint against unknown driver. Accordingly offence was registered under Sections 134(a)(b) of

Motor Vehicle Act was registered.

2. During investigation it was disclosed that it was not taxi driver (who dashed the injured) but it was the driver of motor car Volkswagen who dashed the accused. It was also disclosed that at material time it is the petitioner who drove the motorcar. The Police have also filed charge sheet for the offence punishable under Sections 279, 337, 304(A) of Indian Penal Code and under Section 138(a)(b) of Motor Vehicle Act.

3. Apart from this case there was proceeding before Motor Accident Claims Tribunal, Mumbai being MACP No.507 of 2021 for compensation. It was settled in Lokadalat on 25.09.2021 and the insurer has agreed to pay Rs.20,14,000/- towards the compensation and there was an order passed on 25.04.2021 along with apportionment of compensation amount. Its copy filed on record (page No.35). Hence this Criminal Application for quashing.

4. The first informant/Respondent No.2 has filed consent affidavit affirming above terms. He has also admitted about receipt of Rs.20,14,000/- towards accident compensation. Furthermore the Applicant has paid Rs. One lakh additionally and also issued pay order.

Respondent No.2 has consented for quashing.

5. It is true that trial will take time till it reached to final conclusion. Though there is breach of the provision of penal law, the wife of Respondent No.2 has expired and it is true that her life cannot be compensated in money. Still except paying compensation there is no other way to give him mental satisfaction. If the Applicant is convicted (in spite of certain lacunaes) the Respondent No.2 is not going to be benefited. Applicant is also of young age. Considering all the factors we are inclined to quash the prosecution. Hence the following order.

ORDER

- a) Criminal Application is allowed.
- b) The FIR bearing C.R. No.68 of 2021 dated 17.02.2021 registered at Police Station Mahim, Mumbai for the offences punishable under Sections 279, 337, 304(A) of IPC and under Section 138(a) (b) of Motor Vehicle Act charge-sheet bearing C.C. No.2127/PS/2021 of 2021 quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)