

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

CRIMINAL WRIT PETITION NO.1763 OF 2022

Hormazd Miki Buhariwala ...Petitioner

Versus

1. The State of Maharashtra

2. Aziz Ismail Mansuri ...Respondents

Mr. Omneel Jadhav a/w Ms. Diksha Tripathi i/b Mr. Amit Karkhanis,
for the Petitioner.

Mr. Y. M. Nakhwa, A.P.P for the Respondent No.1– State.

Ms. Keral Mehta, for the Respondent No.2.

PSI – Digvijay A. Metkari, Marine Drive Police Station, Mumbai, is
present.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 16th DECEMBER 2022

P.C. :

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent
of the parties and is taken up for final disposal. Learned A.P.P waives
notice on behalf of the respondent No.1–State. Ms. Mehta waives

notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, the petitioner seeks quashing of the FIR bearing C.R. No. 21 of 2021, registered with the Marine Drive Police Station, Mumbai, for the alleged offences punishable under Sections 279, 336 of the Indian Penal Code and under Section 184 of the Motor Vehicles Act. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent No.2, the incident took place on 15th February 2021 at about 11:20 p.m. when he had parked Yamaha FZ Motor Bike on the side of N. S. Road, South Channel, in front of Hindu Gymkhana and was sitting on the bench on the footpath near the Service Road of Hindu Gymkhana. He has stated that around 11:30 p.m, one white Volkswagen Polo Vehicle dashed against his parked Motor Bike and

drove towards Churchgate, without stopping. It is alleged that due to the dash, the motor bike was damaged, pursuant thereto, the aforesaid FIR was registered. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai, being C.C. No.270/PS/2022.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same.

6. Learned Counsel for the respondent No. 2 has tendered an affidavit of the respondent No.2 dated 14th December 2022, duly notarized before the Notary. In the said affidavit, the respondent No.2 has stated that the petitioner has reimbursed him for the minor damages caused to his vehicle. He has stated that in view of the amicable settlement, he has no objection to the quashing of the case, initiated at his behest, as against the petitioner. Respondent No. 2 is

present in Court. On questioning, he re-iterates what is stated by him in his affidavit. Learned counsel for the respondent No. 2 has tendered a self attested photocopy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

7. Considering the nature of allegations, the nature of dispute; the amicable settlement between them, the affidavit of the respondent No.2, there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR bearing C.R. No. 21 of 2021, registered with the Marine Drive Police Station, Mumbai, and consequently, the proceeding pending before the learned Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai, being C.C. No.270/PS/2022, are quashed and set-aside.

9. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

10. The petitioner to deposit a sum of Rs.10,000/-, with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, as costs. The said costs to be deposited within three weeks from today.

11. Stand over to **30th January 2023**, for recording compliance of the said deposit of costs.

12. All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.