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

CRIMINAL APPLICATION NO. 860 OF 2021

Narottamdas Gokuldas Dodia

... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Kartik Gantha i/b. Omkar Khanvilkar Law Chambers for the Applicant

Mr. Advait Tamhankar for Respondent No.2

Mr. J.P. Yagnik, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.***

DATE : 01 JULY 2022

P.C. :-

Heard the learned Counsel for the parties. Taken up for disposal by consent.

2. Leave to amend is granted to incorporate the prayer regarding quashing of the charge-sheet and necessary pleadings.

3. By this Application the Applicant has sought the following relief :-

“(a) Quash the FIR No. 60/2021 u/s. 279, 338 and 427 of the Indian Penal Code, 1860 lodged at Malad Police Station and Charge-sheet No.6293 of 2022 along with all matters/proceedings arising out of the aforementioned FIR and charge-sheet.”

Reason for seeking quashing of the FIR is the consent given by the Respondent No.2.

4. The learned Counsel for the Applicant and the learned Counsel for Respondent No.2 state that the parties have settled their dispute and affidavit is filed by Respondent No.2 giving consent. The learned Counsel for the parties state that the case falls within the law laid down by the Supreme Court in the case of *Gian Singh v/s. State of Punjab*¹ and pray that the FIR and the proceedings be quashed.

5. The Respondent No.2 filed an FIR stating that on 17 February 2021, when he entered a petrol pump to fill petrol, at that time, all of a sudden, the car driven by the Applicant came behind and dashed against the motorcycle. The Respondent No.2 received injuries on his head, back, legs and chest. Since he was feeling uneasy, the people gathered and took him to nearby nursing home. Medical examination revealed that the Respondent No.2 had three fractures.

¹ 2012(10) SCC 303

6. The Applicant is 84 years old. The Respondent No.2 is 59 years old.

7. In the consent affidavit it is stated that due to the old age of the Applicant, after arriving at the Petrol Pump by mistake he accelerated the car instead of pressing the brake and gave a dash to Respondent No.2's motorcycle. It is stated that the Applicant gave hardship compensation of Rs. 1,50,000/- on 17 February 2021 and 20 February 2021 to the Respondent No. 2. The Applicant also gave a cheque of Rs.2,50,000/- by way of hardship compensation. The Respondent No.2 has stated that he has received this money and the accident took place due to old age of the Applicant, and he does not wish to pursue his grievance any more.

8. We have considered these facts and circumstances. Considering the advanced age of the Applicant, the stand taken by Respondent No.2 and payment of hardship compensation to the Respondent No.2, keeping the prosecution pending would be a needless harassment. The incident occurred due to old age and human error on the part of the Applicant and did not have any large scale implications on the society. Keeping the prosecution pending would be a needless harassment to all the parties and it is not likely to result in conviction. We, therefore, find merit in the contention of the learned Counsel that the case is covered by the law laid down by the Supreme Court in the case of *Gian Singh*.

9. Accordingly, the Petition is allowed in terms of prayer clause (a).

N.R. BORKAR, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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PRAKASH PAWAR
Date: 2022.07.14
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