

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3701 OF 2022**

1. Rohit Saksena	]	
2. Nimisha Rohit Saksena	]	Petitioners
Vs.		
1. The State of Maharashtra	]	
2. Akash Kumar Gond s/o	]	
Gullu Kumar Gond	]	Respondents

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Mr. Yashwarchan Tiwari, for Petitioners.

Mr. K.V. Saste, A.P.P, for Respondent No.1 -State.

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

**DATE : 23rd DECEMBER, 2022.
(In Chambers)**

ORDER: [Per Prithviraj K. Chavan, J.]:

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1-State. Respondent No.2 -Akash Kumar Gond waives notice on his behalf.

3. By this petition preferred under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure (for short "Cr. P.C"), the petitioners seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.976 of 2021 with the Goregaon Police Station, Mumbai for the alleged offences punishable under Sections 279, 337 of the Indian Penal Code (for short "I.P.C") and Section 134 (a) and (b) of the Motor Vehicle Act. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. Briefly stated, facts are as follows.

5. Respondent No.2 - Akash Kumar Gond (For short "respondent No.2") is an Auto Rickshaw Driver. On 25th August, 2021, around 2.30 a.m., he was carrying two transgenders in his Auto Rickshaw bearing registration No. MH 47 EX 4044 from Santosh Nagar to Bhagatsingh Nagar No.1, Link Road, Goregaon (West). When his rickshaw reached near Veer Savarkar Flyover, suddenly a car violently dashed his Auto

Rickshaw from the rear side, due to which, it turned turtle. Due to the said accident, both transgenders as well as respondent No.2 sustained injuries. Respondent No.2 sustained injuries to his right leg, waist and right hand. Similar were the injuries sustained by the transgenders also.

6. Driver of the offending car which, according to respondent No.2 was a Maruti Wagon R bearing No. H.R 29 A. T 7221, came out. One of the transgenders called the Police. When the people in the vicinity started gathering over there, Car driver made his escape good from the spot along with his car. The Police arrived at the scene and carried respondent No.2 and the transgenders to Trauma Hospital, Jogeshwari East. They were treated in the Hospital.

7. Subsequently, a report came to be lodged by respondent No.2 as against the petitioner. The two transgenders in the rickshaw were one Rajani Suryakant Gaikwad and Kajal Vilas Varathe. An offence came to be registered as against the

petitioner bearing No.976 of 2021.

8. Learned Counsel for the petitioners submits that during the pendency of the proceeding, the parties have amicably settled the dispute.

9. Today, the petitioners, husband and wife, respondent No.2 as well as one transgender namely Rajesh Suryabhan Gaikwad appeared before us. Respondent No.2 as well as Rajesh Suryabhan Gaikwad have sworn affidavits dated 23rd December, 2022 stating therein that they have amicably settled their dispute with the petitioners in view of compensation in the sum of Rs.20,000/- received by each of them.

10. Duly attested photocopies of the Aadhar Cards of respondent No.2 and Rajesh Suryabhan Gaikwad are tendered on record. The same are taken on record. In the said affidavit, respondent No.2 has stated that he does not wish to proceed further with the criminal proceedings in light of the amicable settlement. He further states that he has no objection to quashing

of C.R. No.976 of 2021 registered with Goregaon Police Station for the alleged offences punishable under Sections 379, 337 of the I.P.C and 134 (a) and (b) of the Motor Vehicle Act.

11. Respondent No.2 is present in the Court. On being questioned, respondent No.2 reiterates what is stated by him in his affidavit. Learned A.P.P has verified the original Aadhar Card of respondent No.2.

12. Considering the nature of the dispute, amicable settlement arrived at between them and the affidavit of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**,² there is no impediment in allowing the petition.

13. The petition is accordingly allowed. The FIR bearing C.R. No.976 of 2021 registered with the Goregaon Police Station, Mumbai for the alleged offences punishable under sections 276

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

and 337 and under Sections 134 (a) and (b) of the Motor Vehicle Act, 1989, as against the petitioner is quashed and set aside.

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

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

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]