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

CRIMINAL WRIT PETITION NO.3564 OF 2022

Mahesh Subhash Manjrekar ...Petitioner

Versus

1. State of Maharashtra ...

2. Mary D'Souza ...Respondents

Mr. Rishi Bhatt with Mr. Mahesh Sawant for the Petitioner.

Mr. K. V. Saste APP for the Respondent No.1.

Mr. Yogesh S. Sankpal with Ms. Jagruti Vemula for the Respondent No.2-State.

**CORAM : REVATI MOHITE DERE &
S.M. MODAK, JJ.**

DATE : 3RD OCTOBER 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. Mr.

Yogesh Sankpak, learned counsel waives notice on behalf of the respondent No.2.

3 By this petition, the petitioner seeks quashing of the FIR, bearing C.R. No. 301 of 2015 registered with the Amboli Police Station, Mumbai, for the alleged offences punishable under sections 279, 337 and 338 of the Indian Penal Code and 134B, 3/181, 146/196 of the Motor Vehicles Act.

4 Quashing is sought on the premise, that the parties have amicably settled their dispute.

5. Perused the papers. According to the respondent nos.2 – complainant, the incident took place on 13th October 2015, at about 11.30 am. She has alleged that the petitioner was driving the motor car, and that the petitioner's car dashed her, on account of which, she sustained an injury on her right side ankle. Pursuant to the same, the respondent no.2 lodged the aforesaid complaint, which was registered vide C. R. No.301 of 2015 with the Amboli Police Station, Mumbai.

6. After investigation, charge-sheet was filed and the case is pending, before the Metropolitan Magistrate, 44th Court, at Andheri, Mumbai, being C. C. No.179/PS/2021. During the pendency of the said proceeding, the parties have amicably settled their dispute.

7. Learned counsel for the respondent no.2, on the last date i.e. on 30th September 2022, had tendered an affidavit of the respondent no.2 (original complainant), giving her no objection to quashing of the aforesaid C.R./criminal case. In the said affidavit, it is stated that she is 92 years of age, and it is difficult for her to travel and that even the doctor had advised her, not to travel because of her age. She has stated that the dispute has been amicably settled with the petitioner, and that she has no grievance against the petitioner and as such, has no objection, to quashing of the FIR/proceeding.

8. Vide order dated 30th September 2022, we took the

said affidavit of the respondent no.2, on record. The relevant para of the said order, reads thus :

“6 Learned counsel for the respondent No. 2 has tendered an affidavit of the respondent. No. 2 dated 29th September 2022, duly affirmed before the Notary. To the said affidavit, is annexed the Certificate of the Doctor to show that the respondent No. 2, aged 93 years, is bedridden, having regard to her age. The affidavit also bears the endorsement of the Notary that he had personally visited the premises of the respondent No. 2. He has stated that the respondent No. 2 was bedridden, when the document was notarized. The Notary has verified the Aadhar Card of the respondent No. 2. In the said affidavit, the respondent No. 2, has stated that having regard to her old age and various illness suffered by her, she is unable to travel and as such, remain present before this Court. She has stated in the affidavit that she has amicably settled the dispute with the petitioner and that she has no objection to the quashing of the said FIR/charge- sheet/proceeding.

9. Since the respondent no.2 is residing in Dahisar,

Mumbai, we directed the concerned officer of the Amboli Police Station to visit the respondent no.2's house and record her statement, as to whether she has any objection to the quashing of the proceeding initiated against the petitioner, at her behest.

10. Pursuant to the said order, the Police Officer of the Amboli Police Station has recorded the statement of the respondent no.2 - Marry D'Souza dated 1st October 2022. Learned APP has tendered the said statement of the respondent no.2. The same is taken on record. In the said statement, the respondent no.2 has stated that she has no objection for quashing of the said FIR. The said statement, has been signed by the respondent no.2.

11. Considering the peculiar facts, the manner in which the accident took place, the injury sustained by the respondent no.2 on her ankle, the amicable settlement between the parties, the respondent no.2's affidavit and having regard to the judicial pronouncements, there is no impediment in allowing the

petition.

12 The petition is accordingly allowed and the FIR bearing C.R. No. 301 of 2015 registered with the Amboli Police Station, Mumbai, and consequently the proceeding arising therefrom, being C. C. No.PS/172/2016, are quashed and set-aside.

13 Petitioner to pay the cost of Rs.20,000/- to the **Maharashtra Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060** within two weeks from today.

14 Petition is accordingly disposed of.

15 Stand over to 20th October 2022, for recording compliance of the said order of deposit.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.