

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

WRIT PETITION NO.6068 OF 2021

Mr. Enron Ignatius D'Souza

...Petitioner

Versus

The State of Maharashtra and Anr.

...Respondents

....

Mr. Veer Kankaria for the Petitioner.

Mr. Faiz Khan for Respondent No.2.

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

Mr. Irfan Shah, Respondent No.2 is present.

CORAM : PRASANNA B. VARALE &

ANIL S. KILOR, JJ.

DATED: 4th FEBRUARY, 2022.

P.C.:-

1. Heard Mr. Veer Kankaria, learned counsel for the Petitioner, Mr. K.V. Saste, learned APP for Respondent No.1-State and Mr. Faiz Khan, learned counsel for Respondent No.2. Respondent No.2 is also present before the Court by way of virtual mode.

2. The Petitioner prays for quashing of the FIR lodged at Shahunagar Police Station, Mumbai bearing Crime No.363 of 2016 as well as the proceedings arising out of the FIR in Case No.934 of 2017 pending before the learned Metropolitan Magistrate, Bandra, Mumbai. Our

attention was invited to the copy of the report and the complaint submitted to the police station authority at the instance on Respondent No.2 on 18/08/2016. Perusal of the said report shows that the son of Respondent No.2 met with an accident and suffered an injury to his left leg. Son of Respondent No.2 was immediately shifted to nearest hospital i.e. Sion Hospital and the primary medical treatment was provided to him. Accordingly, the complaint was lodged against the motorcycle rider i.e. the Petitioner, who was riding the two wheeler motorcycle No.MH.01.BZ.4262 FZ at the relevant time.

3. The learned counsel appearing for the relevant parties viz. Counsel for the Petitioner as well as Respondent No.2 admits that for quite some time matter was pending before the Court and though the parties have arrived at an amicable settlement, they failed to approach this Court immediately for seeking quashment of the proceedings as the Petitioner was engaged in his duties as well as Respondent No.2 was also busy with his engagements.

4. Learned counsel for the Petitioner submits that the Petitioner is an employee of a private company and working as a groundman in the said company viz. Spicejet Company. It is further submitted by the

counsel for the Petitioner that when the Petitioner realized that pendency of the proceedings against the Petitioner may adversely affect his employment, even though the parties have settled their dispute, the Petitioner immediately rushed to this Court by filing the present petition.

5. Our attention was invited to the document placed on record under caption 'Consent Terms' between the parties at Exhibit-'B' at page 40. This document is duly signed by the Petitioner and Respondent No.2 as well as their respective Advocates. It is stated in the said document that it is agreed between the parties that all the medical expenses and bills will be paid by Mr. Enron Ignatius Dsouza i.e. the Petitioner. Then it is stated that Mr. Irfan Shah, Respondent No.2-original complainant shall give his consent for quashing of police case No.934 of 2017 pending before the learned Metropolitan Magistrate Court, Bandra, Mumbai under Sections 279 and 336 of the IPC. The Petitioner also agreed to bear the costs of the proceedings. Respondent No.2 is present before this Court by virtual mode. A query was put to Respondent No.2, who is present before this Court by virtual mode as to whether the terms are agreed by him on his free will and consent and whether the Petitioner as per the agreed terms paid all the medical bills to Respondent No.2. Respondent No.2 replied in affirmative.

6. Considering these facts, we are of the opinion that continuation of the proceedings would be nothing but an act of futility. As the Petitioner has made out a case for allowing the petition, the petition is allowed in terms of prayer clauses (a) and (b) and dispose of accordingly.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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