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

CRIMINAL WRIT PETITION NO. 4333 OF 2022

Adrian de Souza

.. Petitioner

Vs.

1. The State of Maharashtra

2. Rakesh Kishore Singerkhiya

.. Respondents

.....

Mr. Subodh Desai i/b Mr. Aditya Sawant for the petitioner

Mr. J.P. Yagnik, APP for the respondent – State

Mr. Jignesh Gor i/b Ms. Trupti Parmar for the respondent no.2

.....

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

DATED : 6th DECEMBER, 2022.

P.C.

1. Heard learned Counsel for the petitioner.

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 and

learned Counsel Mr. Gor, i/b Ms. Trupti Parmar 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 Code of Criminal Procedure, the petitioner seeks quashing of the FIR registered vide C.R. No.131 of 2018 with Cuffe Parade Police Station, Mumbai for the offences punishable under Sections 279 and 338 of the Indian Penal Code and consequently proceeding pending before the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai, being Case No.1201/PS/2019. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Learned Counsel appearing for the petitioner submits that the parties have amicably settled their dispute and as such the respondent No. 2 has no objection if the proceeding i.e. the aforesaid C.R and consequently the proceeding arising therefrom, are quashed and set aside, in view of the amicable settlement between the parties.

5. Perused the papers.

6. According to the respondent no.2 (original complainant) who is working as a Lab Technician in N.M. Medical Centre at Gamdevi, on 06.07.2018 at 7.30 a.m. he visited one patient at Cuffe Parade, Mumbai to collect some blood sample and returned to N.M. Medical Centre. It is further stated that again at about 10.15 a.m. when he was on his way on a motorcycle to collect the blood sample of the same patient, when he reached near Buena Vista building, a black colored car came out from the said gate and dashed into the respondent no.2's motorcycle, as a result of which, the respondent no.2 fell down and sustained an injury to his left leg i.e. left tibia – fibula fracture. Pursuant thereto, aforesaid complaint was lodged as against the petitioner. After investigation, charge-sheet was filed and the said case is pending before the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai, being Case No. 1201/PS/2019.

7. During the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the said case.

8. Learned Counsel appearing for the respondent no. 2 has tendered a consent Affidavit, dated 25.11.2022 of the respondent no.2, duly affirmed before the Assistant Registrar, High Court, Bombay. The said affidavit is taken on record. Learned Counsel for the respondent no. 2 has also tendered a self attested photocopy of the Aadhar card of the respondent no.2. The same is also taken on record. The respondent no. 2 is present in the Court. On being questioned, he reiterates the contents of his Affidavit. Learned Counsel appearing for the respondent No.2 has identified the respondent no.2 and the learned A.P.P has verified the original Aadhar Card of the respondent no.2.

9. Having regard to what is stated aforesaid, the amicable settlement between the parties, the nature of injury sustained by the respondent no.2, respondent no.2's affidavit and the judicial pronouncements in this regard, there is no impediment in allowing the petition.

10. Accordingly, the petition is allowed and C.R. No.131 of 2018 registered with the Cuffe Parade Police Station and consequently the

proceeding pending before the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai bearing Case No.1201/PS/2019 are quashed and set aside.

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

12. Learned Counsel for the respondent no.2 to file his Vakalatnama, if not filed, on behalf of the said respondent, in the Registry, within two weeks of uploading of this order.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.