

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.3163 OF 2023**

Anandraj Manikam & Anr.

..... Petitioners

V/s.

The State of Maharashtra & Anr.

..... Respondents

Mr. Karim Pathan for the Petitioners.

Ms. S. D. Shinde, APP for the Respondent-State.

Mr. Fazlurrahman Shaikh for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.****DATE : 18th OCTOBER, 2023.****P.C.:-**

1) Petitioners-original accused in C.R. No.177/2023 registered with Meghwadi Police station, Jogeshwari, Mumbai under Section 304-A and 34 of IPC, have invoked jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C., for quashing of the said crime with the consent of Respondent No.2, the informant.

1.1) Learned Advocate for Petitioners on instructions submitted that, till date the police have not submitted charge-sheet in the present crime. The said statement is accepted.

2) Petitioner No.1 is owner of the shop and Petitioner No.2 is his

employee. The allegations against Petitioners is that on 16th May 2023 when the daughter of Respondent No.2, aged 4 years had been to the shop of Petitioner No.-1 for purchasing chips, she clinged the glass counter kept in the said shop, which collapsed and fall on her due to which daughter of Respondent No.2 expired while undergoing medical treatment. Prosecution therefore has applied Section 304-A of IPC to the present crime. Section 304-A prescribes maximum punishment of 2 years with or without fine.

3) Learned Advocate for Respondent No.2 submitted that, Petitioners and Respondent No.2 have settled the matter amicably and Respondent No.2 has given his no objection for quashing of the said case.

4) Learned Advocate for Respondent No.2 tendered across the bar his Affidavit dated 18th October 2023 duly affirmed before the Assistant Registrar of this Court. Respondent No.2 has admitted the fact of amicable settlement. He has stated that, he has no grievance against Petitioners and at his free will he has given his no objection for quashing of the present crime. He has further stated that, on humanatarian grounds he has shown his willingness to give no objection for amicable settlement.

5) Respondent No.2 is personally present in the Court and through his Advocate reiterates the contents of his Affidavit dated 18th October 2023 and his 'no-objection' for quashing of the crime in question.

6) In view thereof, we are inclined to quash the said C.R. No.177/2023 registered with Meghwadi Police station, Jogeshwari, Mumbai under Section 304-A and 34 of IPC.

7) As we expressed our opinion for quashing of said C.R. No.177/2023, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.25,000/- to Advocate's Association of Western India Generation Next Fund, Mumbai within a period of two weeks from the date of uploading of Order. The said statement is accepted as an undertaking given to this Court.

8) We direct the Petitioners to pay a cost of Rs.25,000/- to Advocate's Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

8.1) Details of the bank Account for payment of cost are as under:-

Account Name	:	Advocates Association of Western India Generation Next.
Account Number	:-	000110110007807.
Bank Name	:-	Bank of India.
Branch Name	:-	Mumbai Main.
IFSC Code	:-	BKID0000001.

Petitioners to deposit the said cost of Rs.25,000/- within

stipulated period as noted above and submit receipt of the same in the Registry of this Court.

9) In view of above, and subject to payment of cost, C. R. No.177/2023 registered with Meghwadi Police station, Jogeshwari, Mumbai under Section 304-A and 34 of IPC is quashed.

10) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the Investigating Officer shall complete the investigation of the present crime expeditiously.

11) List the Petition on board on 9th November 2023, under caption 'for reporting compliance' of present Order.

12) All the concerned to act on the basis of an authenticated copy of this Order.

(SHARMILA U. DESHMUKH, J.)

(A. S. GADKARI, J.)