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APL-1147-2023.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1147 OF 2023

Apeksha Shah

...Applicant

V/s.

The State of Maharashtra & Another

...Respondents

Mr. Ninad Mujumdar & Ms. Radhika Mundada i/b H. S. Dalal for the Applicant.

Ms. M. H. Mhatre APP for Respondent No. 1 (State).

Ms. Ankita Bamboli for Respondent No. 2.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

DATE : 21st September, 2023.

P.C. :

1. Heard Mr. Ninad Mujumdar, learned counsel appearing for the Applicant, learned APP for the Respondent-State and Ms. Ankita Bamboli, learned counsel appearing for Respondent No. 2.

2. By this Application, the Applicant-Accused in CC No. 2191/PS/2016 pending on file of Metropolitan Magistrate, 17th Court, Borivali, Mumbai for the alleged offences punishable under Section 279 and 337 of the Indian Penal Code and Section 184 of Motor Vehicle Act, seeks quashing of proceeding by consent.

3. Learned counsel appearing for the Applicant submit that the matter has been amicably settled between the parties. He would further

submit that the injuries sustained by the Respondent No. 2 and his wife are simple in nature and would point out the injury certificate which is annexed at page Nos. 25 and 26 of the Application.

4. Learned counsel appearing for the Respondent No. 2 on instructions of Respondent No. 2, who is present in person submits that, he has no objection for quashing of the criminal complaint and that an affidavit dated 30th August, 2023 duly notarized before the Notary Public has been filed. He has tendered the consent Affidavit of the wife of Respondent no. 2 duly affirmed on 14th September, 2023 stating that, she has no objection for quashing of the criminal complaint. The Respondent No. 2 and his wife are present in Court and reiterates the contents of their Affidavits.

5. We have considered the injury certificate annexed to the petition which shows that the injuries are simple in nature. The consent Affidavits filed by Respondent No. 2 and his wife indicates that, the parties have amicably settled the dispute and do not wish to prosecute the criminal complaint further. As the parties have amicably settled the dispute, we see no fruitful purpose in continuing the criminal prosecution against the Applicant.

6. As we expressed our opinion for quashing of the said criminal

complaint, i.e. C.C. No.2191/PS/2016, learned advocate for the Applicant on instructions submitted that, the Applicant will pay a cost of Rs.25,000/- to the Kirtikar Law Library, High Court of Bombay within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

7. We direct the Applicant to pay a cost of Rs.25,000/- to the Kirtikar Law Library within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court. Applicant 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.

8. In view of above and subject to payment of cost, Application is allowed in terms of prayer clause (b).

9. It is made clear that, if the cost is not paid within the stipulated period as mentioned above, the Application shall stand revived automatically.

10. List the Application on board on 25th October 2023, under caption 'for reporting compliance of present Order'.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)