

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

CRIMINAL WRIT PETITION NO. 5237 OF 2018

Mr. Rohit Omprakash Gupta

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Mahesh Vishwakarma i/by Vishwakarma and Associates for the
Petitioner.

Mr. K.V. Saste, APP for the State/Respondent

Ms. Angha Tandel for Respondent No. 2.

**CORAM : SUNIL B. SHUKRE, AND
M.M.SATHAYE, JJ.**

DATE : 10th APRIL 2023

PC.:-

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No.1/State. Learned Counsel for Respondent No.2/complainant waives service. Taken for final hearing by consent of parties.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking to quash an FIR No. 148 of 2018 registered with Vashi police station, Navi Mumbai and consequent criminal case bearing R.C.C.No. 966 of 2018 in the Court of Judicial

Magistrate First Class, Vashi for offences punishable under sections 341, 336, 337, 427 & 504 of the Indian Penal Code (“IPC” for short).

3. Learned counsels for the Petitioner and Respondent No.2 jointly state that the matter is amicably settled and the Respondent No.2 /complainant has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime.

4. Perusal of FIR dated 16.04.2018 as well as the affidavit of complainant affirmed on 05.01.2023, shows that the matter is arising out of road-rage dispute. On the date of incident when the Respondent No.2, who is serving as driver, was driving his company's tempo and was at a toll gate, because the car in front of the tempo was not moving, Respondent No. 2 tried to take his tempo ahead, when a swift car driven by the Petitioner collided with the tempo. It is alleged that on such collision, the Petitioner got down from the car and started abusing the Respondent No. 2 orally and the Petitioner took out the tempo's key and took away the same with him, as a result of which, the Respondent No.2 could not move his

tempo and when the tempo was standing in such situation, one Maruti Alto Car came from behind and collided on it and one more swift car which was behind the alto car, also collided on Alto.

5. It is seen from the charge-sheet that only Petitioner is accused in the said incident. Perusal of the Affidavit of Respondent No.2/complainant shows that during pendency of the matter, the parties have arrived at amicable settlement out of their own volition, free from any external pressure. It is stated by Respondent No.2 that because of the settlement, he does not wish to further prosecute the matter and is willing to withdraw the same unconditionally. Finally, Respondent No.2 has consented for quashing the impugned crime. Also, perusal of other statements recorded during investigation shows that there is no sufficient material for any fruitful trial, independent of Respondent No. 2-complainant's case, who has now settled the matter.

6. The Petitioner & Respondent No.2/complainant are present personally in the Court today and are identified by their respective

advocates. On enquiry, they state that the settlement has been arrived at without any pressure or coercion.

7. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private in nature arising out of road-rage and as such, this Court is of the view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed and crime is quashed qua the Petitioner.

8. In the net result, we pass following order:

(i) Writ Petition is allowed.

(ii) The FIR No. 148 of 2018 registered with Vashi police station, Navi Mumbai and consequent criminal case bearing R.C.C. No. 966 of 2018 in the Court of Judicial Magistrate First Class, Vashi for offences punishable under sections 341, 336, 337, 427 & 504 of the Indian Penal Code and all the consequent proceedings thereto are quashed and set aside to the extent of Petitioner.

(iii) This is subject to condition precedent that Petitioner and Respondent No.2 each, deposits an amount of Rs. 5,000/- within 4

weeks from today, in the account of Bombay High Court Legal Aid and Fund (Account No. 60045304283, Bank of Maharashtra, Fort Branch, IFSC Code MAHB00000002).

(iv) It is clarified that if the amounts are not deposited as stipulated above, by any of the parties, this Order will be canceled automatically and the matter will be restored to file of this Court for further directions.

(v) Rule is made absolute in the above terms. No order as to costs.

(vi) Stand over for 4 weeks for reporting compliance before Registrar Judicial (II). If compliance is made, Registrar to close matter.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)