

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.601 OF 2023

Zoraver Deepender Rana

...Applicant

vs.

The State of Maharashtra

...Respondent

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2024.02.12
16:01:02 +0530

Mr. Sangram Chinnappa, for the Applicant.

Mrs. G.P. Mulekar, APP, for the Respondent/State.

Mr. D.A. D'Souza, PSI, Sawantwadi police station.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 8, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This application under section 482 of the Code of Criminal Procedure, 1973 is preferred to quash and set aside an order dated 15th May, 2023 passed by the JMFC on an application (Exhibit 7) in SCC No. 248 of 2020 whereby the learned Magistrate declined to stop the proceedings under section 258 of the Code of Criminal Procedure, 1973 initiated against the applicant for the offences punishable under section 279 and 337 of the Indian Penal Code, 1860 and sections 132 and 187 of the Motor Vehicle Act, 1988.

3. The gravamen of indictment against the applicant is that on 16th August, 2019 at about 5.45 am Mumbai Goa highway, near Mouje Pavashi Tavte Mhadeshwarwadi, Kudal, the applicant drove a Tata Indigo Car bearing No. MH-04-GD-6598 in so rash and

negligent manner as to endanger human life or cause hurt or injury to any other person and fled away without giving intimation of the accident. The applicant had allegedly taken over the car from its driver Gajanan Joshi by representing to him that he had license to drive car and drove the car in a rash and negligent manner without paying attention to the condition of the road and traffic and collided with an oncoming Container. In the process, the car was damaged and the applicant had also sustained minor injuries.

4. The learned Magistrate declined to stop the proceedings under section 258 of the Code as there was adequate material to proceed against the applicant in the form of the allegations in the FIR, the statements of the witnesses and the documents on record.

5. Mr. Chinnappa, the learned counsel for the applicant, submitted that the learned Magistrate lost sight of the fact that an offence punishable under section 337 cannot be said to have been made out as no person other than the applicant had sustained injury in the said accident. Nor there is any witness who states that the applicant drove the car in a rash or negligent manner. The FIR came to be lodged belatedly at the behest of the owner of the car who intended to extort an exorbitant amount from the applicant for the alleged damage to the car.

6. The fact that the applicant was at the wheel of the car is not

put in contest. Nor the factum of collusion, as such, is controvertible. Prima facie, there is material in the form of scene of occurrence panchanama which records the factum of accident, the situation at the place of accident and the position of the vehicle involved in the collision. Whether the applicant drove the vehicle in a rash or negligent manner is essentially a matter of evidence and trial. The said fact can be established by ocular account as well as the circumstantial evidence. The veracity of the statements of the witnesses and reliability of the material pressed into service by the prosecution cannot be delved into at this stage.

7. In the aforesaid view of the matter, learned JMFC committed no error in declining to interdict the prosecution by invoking power under section 258 of the Code. Thus, the application does not deserve to be entertained.

8. Application stands rejected.

(N. J. JAMADAR, J.)