

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2362 OF 2024**

Mr. Amit Kamal Kishor Jain alias
Amit Kumar
Age 44 Occ. Service.
R/at Flat No.1001, Zenith CHS Ltd.
Sector 46A, Seawoods Navi Mumbai
V/s.

... Petitioner

1. State of Maharashtra
2. Mr. Dhananjay Ramchandra Dalvi
Age 25, Occ. Service.
R/at Room No.5, Hariyanawala Lane,
Nagrani Building, Near Jalaram Bappa
Temple, Kurla West, Mumbai-400 070

... Respondents

Mr. Nitesh Bhutekar a/w Kshitija Wadatar i/b M/s Kshitija Wadatar &
Associates for Petitioner.
Mr. V.A. Kulkarni, A.P.P. for Respondent No.1-State.
Mr. Vikrant Khare for Respondent No.2.
PSI Mr. Chetan Pawar, Kherwadi Police Station, Bandra Mumbai.

**CORAM : A. S. GADKARI AND
DR. NEELA GOKHALE, JJ.**

DATE : 8th July 2024.

P.C. :

1) Leave to amend to incorporate challenge to C.C.
No.3104/PS/2024, pending on the file of Metropolitan Magistrate, 32nd
Court, Bandra, Mumbai, in the pleadings and prayer clause(s), is granted.
Amendment be carried out forthwith and in any event, during the course of
the day.

2) Petitioner, accused in C.C. No.3104/PS/2024, pending on the file of Metropolitan Magistrate, 32nd Court, Bandra, Mumbai, arising out of C.R. No.0167 of 2024, dated 26th February 2024, registered under Sections 279 and 337 of the Indian Penal Code and Sections 134(A) and 134(B) of the Motor Vehicle Act, has invoked jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of the Criminal Procedure Code, for quashing of the said crime with the consent of Respondent No.2, the victim.

3) Learned Advocate for the Petitioner submitted that, as a matter of fact, the offence alleged against the Petitioner is arising out of an accident, wherein the Petitioner while driving a car, due to sheer inadvertence, dashed Respondent No.2. Respondent No.2 suffered simple injury in the nature of abrasion to his left elbow and chest. That, in the interregnum, Petitioner and Respondent No.2 due to intervention of family members of each other, have settled their disputes and settled case amicably. Therefore Respondent No.2 has now given his no objection for quashing of the crime in question. He therefore prayed that, the aforesaid case may be quashed with the consent of Respondent No.2.

4) Learned Advocate for Respondent No.2 submitted that, Respondent No.2 has filed an Affidavit dated 2nd May 2024, duly affirmed before a Notary Public. In the said Affidavit, Respondent No.2 has admitted the fact of amicable settlement and receipt of compensation by the Petitioner.

He has also admitted the fact that, the offence in question has been lodged due to incident of accident. That, Respondent No.2 has received medical expenses from the Petitioner, In para No.7, thereof, Respondent No.2 has given his no objection for quashing of the present crime.

5) Learned Advocate for Respondent No.2 submitted that, today Respondent No.2 could not remain present in the Court due to incessant rains. However, Respondent No.2 has given him instructions to admit the contents of his Affidavit dated 2nd May 2024 and his no objection for quashing of the crime in question.

6) In view thereof, we are inclined to quash C.C. No.3104/PS/2024, pending on the file of Metropolitan Magistrate, 32nd Court, Bandra, Mumbai.

7) As we expressed our opinion for quashing of said C.C. No.3104/PS/2024, pending on the file of Metropolitan Magistrate, 32nd Court, Bandra, Mumbai, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.10,000/- to Kirtikar Law Library, High Court, Mumbai, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court. The said statement is accepted as an undertaking given to this Court.

8) We therefore direct the Petitioner to pay a cost of Rs.10,000/- to Kirtikar Law Library, High Court, 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) Petitioner to deposit the said cost of Rs.10,000/- 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, Petition is allowed in terms of prayer clause (a) and amended prayer clause (a-1).

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 Investigation Agency will conclude the investigation expeditiously.

11) List the Petition on board on 8th August 2024, under caption 'for reporting compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

Digitally signed by
RAJESH VASANT
CHITTEWAN
Date: 2024.07.18
10:43:40 +0530