

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.3035 OF 2024**

Mr. Kunj Nilesh Shah

Aged about 30 years, Occ: Graduate

Employee Indian Inhabitant permanently

residing at Flat No.A/01 Harmony CHS Ltd.

Charkop Village, Kandivali West,

Mumbai 400067

And currently residing at Ph 601, 770 Bay

Street, Toronto, ON M5G 0A6, Canada

.....Petitioner

Vs.

1. State of Maharashtra
through the Public Prosecutor,
High Court (A.S.), Bombay.
2. The Senior Inspector of Police
Shivaji Park Police Station
Mumbai.
3. Mr. Ravindra Shekhar Poojary,
Aged about 39 yrs., Occ: Not known
Adult Indian Inhabitant
Residing at 412-Anandi Sadan,
near Ashirwad Bungalow, Nilemore
Village, Nalasopara (W)-401 203
4. Mrs. Baby Shekhar Poojary,
Aged about 61 yrs., Occ: Not known
Adult Indian Inhabitant
Residing at 412-Anandi Sadan,
Near Ashirwad Bungalow, Nilemore
Village, Nalasopara(W)-401 203

.....Respondents

Ms. Henna P. Shah, for the Petitioner.

Mr. S.A.Karmakar,APP, for Respondents No.1 and 2-State.

Ms. Palak Ranka, for Respondents No.3 and 4.

CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.
DATE : 26th JULY, 2024.

JUDGMENT (Per Dr. Neela Gokhale, J) :-

1) Petitioner seeks to quash and set aside criminal proceedings bearing Criminal Case No.255/PS/17 pending with the 5th Additional Chief Metropolitan Magistrate, Bhoiwada, Dadar, Mumbai arising out of CR No.159 of 2016 dated 15th May 2016 registered with Shivaji Park Police Station, Mumbai for the offences punishable under Sections 279 and 338 of the Indian Penal Code, 1860 ('IPC') filed by the Respondent No.3 ('Complainant'), who is son of the Respondent No.4 ('Victim').

2) The FIR arises out of an accident involving the Petitioner and the Respondent No. 4. It is alleged by the complainant that, on 15th May 2016, approximately at about 12.30 pm, the Petitioner was riding his motorcycle bearing registration no. MH-47-L-5886 at high speed and collided with the Respondent No.4, who was walking on the road. She was hurt and was taken to the hospital where she was administered treatment. Hence, she filed the present FIR.

3) Ms. Henna Shah, learned counsel appears for the Petitioner and Ms. Palak Ranka appears for the Respondents No.3/complainant and 4/Victim. Mr. S.A.Karmakar, learned APP represents the State.

4) The counsels of the Petitioner and the Respondents No.3 and 4 state that, the parties have resolved the dispute amicably and have settled

the matter among themselves. Both the parties pray that, the FIR and the subsequent criminal proceedings arising out of the same be quashed in the interest of justice pursuant to the settlement between the parties.

5) Ms. Palak Ranka has placed on record the consent Affidavit dated 9th July 2024, wherein the Respondents No.3 and 4 specifically state that, they have received adequate compensation for the accident that caused the Respondent No.4 injury and loss. The issue giving rise to the FIR and subsequent charge sheet is amicably resolved and the dispute is settled. The Respondent Nos.3 and 4 are present in the Court today and through their counsel state that, they have 'no objection' to quash the criminal proceedings.

6) Mr. Karmakar, learned APP has placed on record the injury certificate, which clearly shows that, the Respondent No.4 suffered a bruise/abrasion on her forehead and a fracture in the right hand. There was no grievous hurt caused to the Respondent No.4. In the circumstances, the parties have stated that, they are desirous of an amicable settlement and the hurt caused to the Respondent No.4 was not grievous.

7) In view of the above, we are inclined to quash the criminal proceedings bearing Criminal Case No.255/PS/17 pending with the 5th Additional Chief Metropolitan Magistrate, Bhoiwada, Dadar, Mumbai arising out of FIR No.159 of 2016 dated 15th May 2016 registered with Shivaji Park Police Station, Mumbai.

8) As we expressed our opinion for quashing of the said proceedings bearing C.C.No.255/PS/17 pending with the 5th Additional Chief Metropolitan Magistrate, Bhoiwada, Dadar, Mumbai arising out of CR No.159 of 2016 dated 15th May 2016 registered with Shivaji Park Police Station, Mumbai, learned Advocate for the Petitioner, on instructions submitted that, the Petitioner will pay a cost of Rs.25,000/- to the Central Police Welfare Fund, Maharashtra State, 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.

9) We therefore direct the Petitioner to pay a cost of Rs.25,000/- to the Central Police Welfare Fund, Maharashtra State, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

9.1) Details of the bank account for payment of cost are as under :-

The details of the bank Account for payment of cost are as under :-

Bank Name :- Axis Bank Limited.

Branch Name :- Worli, Mumbai (M.H.), Mumbai-400 025

Account Name :- Central Police Welfare Fund

Account Number :- 914010029005759

IFSC Code :- UTIB0000060

9.2) Petitioner to deposit the said cost within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

10) In view of above and subject to payment of cost, Petition is allowed in terms of prayer clause (a).

11) 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 trial Court will proceed with the trial of the present case expeditiously.

12) List the Petition on board on 23rd August 2024, under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

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signed by
SHAMBHAVI
NILESH
SHIVGAN
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