



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3405 OF 2024

Hardik Prabhudas Sagar,
Age: 37 years, Occu: Service,
R/o. Gayatri 101, Miskita Nagar,
Dahisar (E), Mumbai.

.....Petitioner

Vs.

1. The State of Maharashtra,
(At the instance of Dahisar Police Station).

2. Santosh Vasudev Kushwaha,
Age: 40 years, Occu: Auto rickshaw Driver,
R/o. Tarunlok Seva Samiti Chawl,
Near Sukarwadi S. T. Bus Depot,
Borivali (East), Mumbai.

.....Respondents

Mr. Gaurav Sharma, for the Petitioner.
Smt. Anamika Malhotra, Addl.PP, for Respondent No.1-State.
Mr. Siddharth Shitole, for Respondent No.2.
Mr. Akshay R. Kulkarni, for Ms. Ramila Vijay Panchal – Victim No.2.

CORAM: A. S. GADKARI AND
DR NEELA GOKHALE, JJ.
DATE : 2nd SEPTEMBER, 2024.

P. C.:

1) Petitioner seeks to quash criminal proceedings bearing Police case No. 2496 of 2018 pending on the file of learned Additional Chief Metropolitan Magistrate, 26th Court, Borivali, Mumbai arising out of FIR No.596 of 2018 dated 8th September 2018 registered with Dahisar Police Station for offenses under 279, 338 and 427 of Indian Penal Code,1860 ('IPC').

2) Brief facts of the case are that, on 8th September 2018, Respondent

No.2 an auto rickshaw driver was out in the morning as usual for his fares and the Petitioner's car drove into the auto rickshaw of Respondent No.2 thus causing him some injuries. Thereafter, the Petitioner's car went ahead and drove into a veranda on the left side and came to a halt also injuring a lady namely, Mrs. Ramila Panchal who was standing near the veranda. Thus the impugned FIR came to be registered.

3) Mr. Gaurav Sharma, learned counsel appears for the Petitioner and Mr. Siddharth Shitole, learned counsel appears for Respondent No.2. Smt. Anamika Malhotra, learned APP represents the State.

4) Both the counsels contend that, considering the decision of the parties to resolve their dispute by amicable settlement and the Consent Terms filed before this Court, the subject FIR be quashed. Respondent No.2 has filed a Consent Affidavit dated 22nd July 2024 duly affirmed before Notary Public. Respondent No.2 has given his no objection to quash the subject FIR and has said that, he does not wish to proceed further with the same. It was brought to this Court's attention that, there was another lady who was injured in the accident, namely, Mrs. Ramila Panchal. She has also filed her Consent Affidavit dated 23rd August 2024 duly affirmed before Notary Public. In paragraph No.5 thereof, she stated that the dispute between herself and the Petitioner is amicably settled and she does not wish to lead any evidence before the trial Court in the case. She has thus given her no objection for quashing of the subject criminal proceedings.

5) Respondent No.2 is present in the Court and through his counsel has reiterated the statements made by her in the Affidavit. We accept the statement.

6) Considering the facts in the present case and the Consent Affidavit of Respondent No. 2 as well as the other victim, we are inclined to quash the criminal proceedings bearing Police Case No.2496 of 2018 pending on the file of learned Additional Chief Metropolitan Magistrate, 26th Court, Borivali, Mumbai arising out of FIR No.596 of 2018 dated 8th September 2018 registered with Dahisar Police Station are quashed and set aside.

7) As we expressed our opinion for quashing the said criminal proceedings, Mr. Gaurav Sharma, learned Advocate for the Petitioner on instructions submitted that, the Petitioner will pay Rs. 25,000/- (Rupees Twenty-five Thousand Only) to the Armed Forces Battle Casualties Welfare Fund, 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) In view thereof, we direct the Petitioner to pay a cost of Rs.25,000/- to the Armed Forces Battle Casualties Welfare Fund within a period of two weeks from the date of uploading of present Order on the official website of High Court of Bombay.

8.1) The details of the Bank Account for payment of cost are as under :-

Bank Name :- Canara Bank
Branch Name :- South Block, Defence Headquarters,
New Delhi – 110 011
Account Name :- Armed Forces Battle Casualties Welfare Fund
Account Number :- 90552010165915
IFSC Code :- CNRB0019055

8.2) Petitioner to deposit the said cost of Rs. 25,000/- (Rupees Twenty-five Thousand Only) within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

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

10) It is made clear that, if the cost is not paid by the Petitioner within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the trial Court will proceed with Investigating Officer shall complete the investigation of the present crime expeditiously

11) List the Petition on board on 20th September 2024, under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)