



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (APL) NO. 1115 OF 2024**

Ajay s/o. Dinkar Mohgaonkar,  
Aged about 63 Years, Occu. Advocate,  
R/o. 12, Ramkrishna Heritage,  
Manohar Vihar, Hazaripahad, Nagpur,  
Pincode – 440012.

**... APPLICANT**

**...VERSUS...**

1. State of Maharashtra,  
Through P.S.O., Police Station, Ambazari,  
Tq. & Dist. Nagpur.
2. Shivani w/o. Piyush Garg,  
Aged : Adult, Occ. Homemaker,  
R/o. Ganga Apartments, Mohan Nagar,  
Sadar, Tq. & Dist. Nagpur.  
Also At  
Kedvai Ward, Kothi Bazar,  
Opposite Ram Mandir, Betul,  
Madhya Pradesh.

**...NON-APPLICANTS**

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Mr. Anil Mardikar, Sr. Advocate with Mr. V. R. Deshpande, Advocate for  
Applicant.

Mr. S. S. Doifode, A.P.P. for Non-applicant/State.  
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**CORAM :** **VINAY JOSHI AND**  
**MRS.VRUSHALI V. JOSHI, JJ.**

**DATED :-** **19.09.2024**

**ORAL JUDGMENT (PER : VINAY JOSHI, J.):**-

1. Heard.
2. **ADMIT.** The matter is taken up for final disposal by consent of  
learned Counsel appearing for the parties.

3. This is an application seeking to quash First Information Report vide Crime No.382/2024 registered with Police Station Ambazari, Nagpur for the offences punishable under Sections 279 and 338 of the Indian Penal Code and Sections 134 and 177 of Motor Vehicles Act.

4. A road accident gave rise to the lodging of the First Information Report by the wife of the injured Piyush. Though the informant is not the eye witness to the occurrence, however, she complained that at the relevant time her husband was crossing the Ladies Club Square by riding two wheeler. She stated that applicant suddenly came by driving four wheeler and gave a forceful dash to injured Piyush. In the result, injured Piyush fell from two wheeler and sustained injuries of grave nature. The informant stated that due to rash and negligent driving by applicant accident occurred.

5. Mr. Anil Mardikar, learned Senior Counsel for the applicant would submit that though there was a dash between two vehicles, however, the First Information Report is a twisted version made to cover the fault of injured Piyush. It is submitted that at the relevant time, the applicant made his four wheeler stationary at Ladies Club Square since there was a red signal. No sooner the green signal was put on, before the applicant taking a right turn, injured Piyush suddenly crossed the applicant's vehicle in a bid to go ahead by his two wheeler and gave dash to the car, resulting into felling and sustaining injury. He would submit that in order to save or cover-up his own fault, the report has been lodged with ulterior motive. The contents of

police report are maliciously false, hence, continuation of prosecution amounts to abuse of the process of the Court.

6. Learned Addl.P.P. resisted the application by filing reply/affidavit and producing investigation papers. The statement of Piyush and his co-passenger Jayanti, who is father-in-law of Piyush states in consonance with the contents of the First Information Report. Since Jayanti is close relative of Piyush, we are inclined to see the statement of the independent witnesses. During the course of the investigation, the police have recorded statement of two independent witnesses namely Raghav Bhandakkar and Atul Agade, who were present and seen the occurrence. On careful examination of their statement discloses the entire occurrence as has been happened. It is their statement that both witnesses were proceeding from the spot and waiting for signal. They stated that one white colour car driven by the applicant was equally waiting for nod of the signal. No sooner the signal was on, a two wheeler suddenly overtook the car from wrong side and in a bid to take right turn, dashed to the white car, resulting into felling and sustaining injury.

7. Both the independent witnesses made categorical statement that injured Piyush drove two wheeler in hurried manner and while crossing the stationary car, gave dash and thus, at his fault fell and sustained injury. During the course of investigation, the police have procured CCTV footage and stored it in the pen drive. Case diary dated 03.07.2024 indicates that

on the procurement of CCTV footage, police have visualized and seen the CCTV footage in which it was revealed that when the signal became green, suddenly two wheeler rider took a turn to his right side and directly came in front of four wheeler. By accidental dash fell down, obviously, by loss of balance. We remind ourselves a well-known phrase that men may speak lie but circumstances may not. In case at hand, entire incident has been captured in the CCTV which could be the best piece of evidence deserves to be accepted. The Investigating Officer himself has watched the CCTV footage and stated the happening. Para 8 of the reply/affidavit also bears a reference as to what has been seen by the Investigating Officer in CCTV footage precisely about the fault of two wheeler rider.

8. We have issued a notice to the informant, however, despite service, she remained absent. The case diary contains a report dated 03.09.2024 contending that the informant was well intimated about the proceedings which she has acknowledged by putting signature but she is absent. Be that as it may, we have considered the matter on merits. *Prima facie*, it is apparent that the informant's husband Piyush was at fault and in a bid to quickly overtake the car at signal, accidentally touched a heavy object i.e. car, resulting into loss of balance and falling on the road. Having regard all above facts, no *prima facie* case is exist against the applicant to put him on trial. We are satisfied from the material collected during the course of investigation that continuation of trial would be an exercise in futility and

abuse of the process of Court. Thus, it is a fit case to resort our inherent powers to secure the ends of justice.

9. In view of above, the application is allowed. We hereby quash and set aside the First Information Report vide Crime No.382/2024 registered with Police Station Ambazari, Nagpur for the offence punishable under Sections 279 and 338 of the Indian Penal Code and Sections 134 and 177 of Motor Vehicles Act.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)