

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 477 OF 2024

Hushad Neville Bacha & Anr.

...Petitioners

Versus

Eric Girgol Vegas & Anr.

...Respondents

Mr. Uday Warunjikar a/w Mr. P.D. Purway, Advocate for the
Petitioners.

Mr. J.P. Yagnik, Addl. P.P. for Respondent No.1/State.

**CORAM : RAVINDRA V. GHUGE
&
RAJESH S. PATIL, JJ.**

DATE : 16th JANUARY, 2025

P.C. :-

1. Petitioner No.1 is a 22 years student, who was around 17 years when the First Information Report (for short 'FIR') No.415 of 2017 was registered with the Oshiwara Police Station, Mumbai on 21st October, 2017. His mother was riding along with him as a pillion rider, on a motorcycle. The FIR was registered in the middle of the night at 00:15 hours. Petitioner No.1 did not have a driving license for riding a motorcycle. He was not wearing a helmet.

2. The contents of the FIR registered by the Police Hawaldar Shri. Eric Girgol Vegas indicate that after the Petitioners were stopped in a surprise random check, it was noticed that Petitioner No.1 was not wearing a helmet and did not have a driving license. He was 17 years of age at the time. He was taken to the Police Station. Petitioner No.2, the mother of the Petitioner No.1 also reached the Police Station and created a scene in the Police Station. She is said to have touched the dress of the Police Constable and two buttons of the shirt were torn off.

3. The learned Advocate for the Petitioners submits that the Petitioners have a serious remorse and regret for the act that was committed. Firstly, Petitioner No.1 was a minor and who could not curb his impulses. Secondly, Petitioner No.2 is the mother who feared for her son and thought that he would get in deep trouble and in the heat of the moment, may have acted inappropriately.

4. We appreciate the submissions of the learned Advocate for the Petitioners that Petitioner No.1 has a future ahead of him and an entire career. The FIR registered against him is likely to create an

obstacle or an impediment, if he desires to seek Employment in either Public Sector or Private Sector or even with the State Government Services of any nature. The learned APP submits that both the Petitioners need to tender an apology before the Court in order to indicate that they are genuinely regretful of what has happened. The Petitioners are agreeable.

5. The learned Advocate for the Petitioners, on instructions, fairly submits that Petitioner No.2 is willing to donate an amount of Rs.25,000/- and Petitioner No.1 is willing to do Social Service as may be directed by this Court, in the light of the Judgment/Orders of this Court delivered in *Parvez Jilani Shaikh and Another V/s. State of Maharashtra & Another, 2015 SCC OnLine Bom 7171*, the Order dated 1st October, 2018, delivered in Criminal Application No.981 of 2018 (*Angad Singh Sethi & Anr. V/s. The State of Maharashtra & Anr.*), the order dated 22nd February, 2019, delivered by this Court in Writ Petition Nos. 3031, 3032 of 2018 (*Ashutosh Vir Dhaval Meher & Anr V/s. Abdul Rahim Juned Ahmed Ansari & Anr.*) and the order dated 24th March, 2022, delivered by this Court in Criminal Application No.189 of 2021 (*Aditya Anilkumar Thorat V/s. The State of Maharashtra & Others*).

6. The learned Advocate Mr. Warunjikar submits on instructions that both the Petitioners are tendering an apology to the Police department, in the Court. The said apology is recorded.

7. Considering the nature of the offence and keeping in view the law laid down by the Hon'ble Court in the case of *Narinder Singh & Ors. V/s. State of Punjab & Anr.*¹, this **Writ Petition is allowed** in terms of Prayer Clause (b), which reads as under :-

“(b) This Hon’ble Court be pleased to issue a Writ of Mandamus or a Writ, direction or order in the nature of Mandamus and be pleased to quash and set aside the C.R. No.415 of 2017 registered with Oshiwara Police Station, Andheri, Mumbai along with Criminal Case No.934/PW/2018 for the offences punishable under sections 353, 332, 504, r/w 34 of the I.P.C. and other sections of Motor Vehicle Act;”

8. We, therefore, direct the Petitioners as under :-

(a) Petitioner No.1 shall perform Community Service on four Sundays, that is, 26th January, 2025, 2nd February, 2025, 9th February, 2025 and 16th February, 2025 with S.K. Patil Mahanagarpalika General Hospital, Malad (E), from 10:00

1 Criminal Appeal No.686 of 2014, decided on 27th March, 2014

a.m. to 2:00 p.m. The Medical Superintendent of the S.K. Patil Mahanagarpalika General Hospital, Malad (E), would allot him the duties during this period, which he shall perform. The learned APP would convey this order to the said Hospital.

(b) The driving license of Petitioner No.1 bearing no.MH47-20190036638, shall be deposited with the Station House Officer of Oshiwara Police Station, Mumbai, on 24th January, 2025. The said license would be retained by the SHO until 15th April, 2025. On 15th April, 2025, Petitioner No.1 would approach the SHO and would receive the said license. If required, he will acknowledge the receipt for the license in writing.

(c) Until 15th April, 2025, the Petitioner No.1 would not ride any two wheeler, three wheeler, four wheeler or any motorized or electric/battery operated vehicle.

(d) The undertaking of the Petitioner No.1 is recorded that he will wear a helmet, whenever he rides a motorcycle in future, after receiving back his license.

(e) Petitioner No.2 shall deposit an amount of Rs.25,000/- in this Court, on or before 31st January, 2025. The Registry of this

Court shall transfer the said amount through RTGS in favour of

“In Defense of Animals”. The account details are as under :-

In Defense of Animals

Account No.04060100019102

Bank Name :Bank of Baroda

Branch – Chandavarkar Road Branch, Matunga

IFSC : BARB0CHANDA (‘0’ is a digit not alphabet)

MICR No.: 400012046

(RAJESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)