

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

CRIMINAL WRIT PETITION NO.2005 OF 2025

Biren Prannath Anand

.... Petitioner

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Ashray Dave, Advocate for Petitioner.
- Smt. M. H. Mhatre, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
S. M. MODAK, JJ.**

DATE : 24th APRIL, 2025

P.C. :

1. Heard Mr. Ashray Dave, learned Counsel for the Petitioner and Smt. M. H. Mhatre, learned APP for the State.
2. By consent the Petition is decided finally at the admission stage. The Petitioner is 67 year old senior citizen. He was working with Bharat Petroleum Corporation for 22 years. After that, he joined a private company and worked with them for 20 years. He is permanent resident of Mumbai. The present Petition is filed for quashing and setting aside the charge-sheet arising out of C.R.No.80/2023 dated 27/04/2023 registered

with Wadala Police Station for the offence punishable u/s 279, 336, 337 of the Indian Penal Code and u/s 184 of the Motor Vehicles Act.

3. The prosecution story is reflected in the FIR lodged by the Police Constable Sharad Salunkhe. He has stated that on 27/04/2023 he was employed on a mobile van at Wadala Police Station. At about 08.30 p.m. he received a message from the control room that one person was lying on the road at Dayashankar Chowk below the free way. He went to the spot. He saw that one person aged around 26 years lay unconscious on the road. The informant made enquiries with the bystanders. They informed that the said person was struck by a car bearing No.MH-02-CV-2210. The informant checked his belongings, which contained his Aadhar card. His name was revealed as Rahul. He was shifted to K.E.M. Hospital. The Petitioner was present at the spot. He gave his details. It is specifically mentioned in the FIR that while the said person Rahul was crossing the road, he was talking on his mobile phone. At that time, the Petitioner's car struck him. It is alleged in the FIR that

the Petitioner was driving the car in rash and negligent manner, causing injuries to Rahul.

4. Learned counsel for the Petitioner submitted that there are no eyewitness to the incident. Therefore, there is nothing to show that the Petitioner was driving the car in a rash and negligent manner. He submitted that the FIR itself mentions that the said person was crossing the road while talking on a mobile phone. That was not a place for crossing the road. The Petitioner was driving the car normally on the road meant for the vehicles. He had not violated any law or speed limits. Learned counsel further submitted that there is no medical evidence to show that the said Rahul had suffered any injuries.

5. Learned APP was directed to produce the medical papers regarding the treatment received by the said person Rahul. Accordingly, the information is received from the K.E.M. Hospital. The name of that person was Rahul Doma. He was aged 26 years. He was admitted vide the entry No.23/21864. He was in the hospital between 27/04/2023 to 01/05/2023. He

had left the hospital without informing anybody. There is absolutely no record showing any injuries suffered by him.

6. We have considered these submissions and we have perused the entire charge-sheet. The certificate dated 27/04/2023 issued by the resident Doctor and the doctor in-charge on 27/04/2023 mentioned that Rahul was admitted in Ward No.20-A under Dr. Saroge. It is further mentioned in the certificate that, that person was under influence and agitated (as mentioned in the certificate). Thus, there is absolutely no record that Rahul had suffered any injuries. In fact, this certificate shows that he was under influence of some substance. The FIR itself mentions that he was crossing the road while talking on mobile phone. It was not a place marked for crossing the road. There was no Zebra crossing at that particular spot. The Petitioner was driving his car on the road. There is no material in the entire charge-sheet that he was driving at high speed or that he was driving in a rash and negligent manner. There is no eyewitness to this incident. The police officers whose statements are recorded namely police constable Sharad Salunkhe, ASI

Gaikwad, WPC Vishakha Patil, ASI Rajendra Shinde have given similar statements to that of the FIR. But none of them has seen the incident. The statement of Rahul is recorded. But he has merely stated that he was struck from behind by a car while he was crossing the road. Thus, there is hardly any material against the Petitioner attracting any of the sections applied against him. In this view of the matter, continuation of the proceedings in the nature of present prosecution will not serve any purpose. The prosecution is required to be quashed and set aside.

7. Hence, the following order :

ORDER

- (i) The FIR vide C.R.No.80/2023 dated 27/04/2023 registered with Wadala Police Station and the further proceedings arising out of the said FIR, are quashed and set aside.
- (ii) The Petition is disposed of.

(S. M. MODAK J.)

(SARANG V. KOTWAL, J.)