
(2013) 06 BOM CK 0002

In the Bombay High Court

Case No : Criminal Application (Apl) No. 380 of 2013

Vivek

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 28-06-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 175

Hon'ble Judges : P.D. Kode, J

Bench : Single Bench

Advocate : R.R. Prajapati, for the Appellant; M.J. Khan, APP for Non-Applicant No. 1-State and Shri R.K. Kumbhare, for Non-Applicant No. 2, for the Respondent

Final Decision : Allowed

Judgement

P.D. Kode, J.—Heard. Rule. Returnable forthwith. Heard finally by consent of parties.

2. By the present application, the applicant, who is accused in Regular Criminal Case No. 10792 of 2013 pending before the Judicial Magistrate, First Class No. 9, Nagpur has sought for exercising powers u/s 482 of Code of Criminal Procedure for according the permission for compounding the offences under Sections 279, 337, 338, 427 of the Indian Penal Code read with Sections 184, 185 of the Motor Vehicles Act for quashing the proceedings in the said case on the count of the matter being amicably settled in between them and in the said state of an affair continuing the proceedings would be only an unnecessary ordeal amounting to abuse of the process of law. The Crime No. 97/2013 of Pratap Nagar Police Station was registered upon the first information report lodged by respondent No. 2 for commission of such offences by applicant. After investigation of said crime, the said Police Station has submitted the charge sheet for commission of the offences above referred against the applicant.

3. Apart from respondent No. 2 not filing any reply denying the contention of the applicant of the matter being settled within themselves, the learned counsel for

respondent No. 2 has made a statement at the Bar that the matter is settled and compromised. The fact of such a settlement being arrived and respondent No. 2 having no grievance against the applicant is reiterated by respondent No. 2 who is present and identified by the learned advocate appearing for respondent No. 2. The respondent No. 2 has also stated that the applicant had also paid all the medical bills for the treatment taken by him for the injuries received in the incident occurred. He also stated that during the incident of accident between two motorcycles, even the applicant had also sustained injuries.

4. The learned counsel for the applicant urged on the lines of the grounds stated in the application and contended that need for approaching this Court has arisen due to one of offences alleged i.e. offence u/s 279 of IPC being not compoundable. After considering the FIR at Annexure-A and considering the allegations upon which the crime was registered, there appears substance in the submission of the learned APP that the facts involved in the present case are of not such a nature for not according the prayer made in the application for compounding the criminal proceedings pending before the lower court and/or quashing the same.

5. Having regard to the aforesaid and considering true import of Section 482 of Cr.P.C. as explained by the Hon"ble Apex Court in decision in the case of Manoj Sharma Vs. State and Others, further clarifying ratio in decision in case of B.S. Joshi and Others Vs. State of Haryana and Another, , it does appear that allowing the continuance of the criminal proceedings in the Court in spite of the parties having arrived at settlement will be an ordeal amounting to the abuse of the process of law.

6. In view of the same, Criminal Application No. 380 of 2013 is allowed. Having regard to the fact of parties having settled the matter for which FIR was registered and the Summary Criminal Case No. 10792/2013 arising out of said Crime No. 97/2013 and pending on the file of Judicial Magistrate First Class, Court No. 9, Nagpur, is hereby quashed and result thereof applicant is acquitted for said offences. Bail bonds executed by applicant and his surety, if any, stand discharged. Rule made absolute in the above terms.