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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.28 OF 2016**

1. Mrs. Neelam Ashish Narsaria		
2. Mr. Pradeep Agrawal		
3. Mrs. Sohini Agrawal		
4. Mr. Rahul Agrawal		Applicants.
versus		
1. State of Maharashtra		
2. Mr. Ashish Vijaykumar Narsaria		Respondents

Ms. Pooja Saxena for the Applicants.
Mr. K.V. Saste APP for the State.
Ms. Aparna Ashtivkar i/b Satayanarayana for Respondent No.2.

**CORAM : RANJIT MORE &
A. K. MENON, JJ.**

DATED : 20TH JANUARY, 2016.

P.C.:

Counsel for the applicants at the outset seeks leave to amend prayer clause so as to give particulars of criminal cases. Leave granted. Necessary amendment shall be carried out forthwith.

2. Heard learned counsel and learned APP appearing for the respective parties.

3. The application is filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting-aside the FIR bearing C.R.No.71 of 2014 registered with Samta Nagar Police Station, at the instance of respondent No.2, for offences punishable

under Sections 306 read with 34 of the Indian Penal Code, 1860.

4. The Applicant No.1 and Respondent No.2 were married on 29.5.2010. Marital dispute between the parties gave rise to filing several criminal as well as civil matter. The subject matter of the present application is one of them. Pending trial, the parties have settled their dispute amicably, and have approached this Court for quashing and setting-aside the subject proceedings. Respondent No.2 has filed an affidavit dated 20th January, 2016. In paragraph 5 he has given no objection to quashing and setting aside the subject criminal case. Respondent No.2 is personally present before the Court. On being questioned, he specifically stated that he has gone through the affidavit, has understood the contents thereof and he has no objection if the subject proceedings is quashed and set-aside. He also stated that he is giving no objection for quashing the said FIR out of free will and without there being any pressure or coercion.

5. By the order passed in Criminal Application No.618 of 2015 dated 20th January, 2016 we have quashed proceedings bearing No.143/PW/2014 pending on the file of learned Metropolitan Magistrate, 69th Court, At Sewree, Mumbai arising out of FIR No.184 of 2013 registered with Nagpada Police Station. We have quashed this proceedings as parties settled their dispute amicably and filed consent terms before the Family Court at Bandra. The consent terms entered between Applicant No.1 and Respondent No.2 also make reference to

the subject Sessions Case and Respondent No.2 has agreed to give no objection to quash the same. The parties have also separated by obtaining divorce by mutual consent under Section 13-B of the Hindu Marriage Act. We have also gone through the charge-sheet. It reveals that father in law of Application No.1 i.e. father of Respondent No.2 committed suicide as Applicant No.1 filed FIR under section 498(A) against Respondent No.2 and her inlaws. It is now well settled position of law that in order to attract the provisions of section 306 of the Indian Penal Code prosecution must show intention or mensrea on the part of the accused. In the present case by filing a complaint under section 498-A of the Indian Penal Code it cannot be said that the applicants intended or had knowledge that the father of Respondent no.2 will commit suicide. We are therefore of considered opinion that the case under section 306 is not made out.

6. It can, thus, be seen that the dispute was totally personal in nature, which has now been settled amicably. In these circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh and ors. versus State of Punjab and anr. 2014 AIR (SCW) 2065.** we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject FIR is required to be quashed and set-aside. However, at the same time, costs need to be saddled on the parties for

using the police and judicial mechanism for settling their personal disputes.

7. The application is, accordingly, made absolute in terms of prayer clause (c). The application stands disposed of.

(A. K. MENON, J.)

(RANJIT MORE, J.)