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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 448 OF 2016**

Hiral Jayanti Sharma and ors.Petitioners
versus
The State of Maharashtra and anr.Respondents

Mr. Ranjeet Patil i/b. Mr. K. M. Kadam, advocate for the petitioners.
Mr. J. P. Yagnik, APP for the State.
Mr. K. S. Patil, advocate for respondent No.2.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 2nd FEBRUARY, 2016.

P.C.:

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

2. The petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Code of Criminal Procedure, 1973, for quashing the proceedings of Sessions Case No.147 of 2008 pending on the file of learned Addl. Sessions Judge, Greater Bombay, Borivali Division at Dindoshi. The said case arises out of FIR bearing C.R.No.I 335/2007 registered with Kandivali Police Station, at the instance of respondent No.2, for the offences punishable under Sections 307, 120-B read with Section 34 of the Indian Penal Code, 1860.

3. Pending trial, the parties to the petition settled their dispute amicably and, in pursuance of an understanding arrived at between them, filed the instant petition for quashing the proceedings of the subject criminal case by consent. Respondent No.2 has filed an affidavit

dated 2nd February, 2016. In paragraph 4, he has given his objection for quashing and setting-aside the proceedings of 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 and has fully understood the contents thereof and has no objection, if the proceedings of the subject criminal case are quashed and set-aside. He also stated that he is giving no objection for quashing the proceedings of the subject criminal case out of free will and without there being any pressure or coercion.

4. It is true that the offence alleged to have been committed by the petitioners is under Section 307 of the Indian Penal Code which would fall in the category of heinous and serious offences and, therefore, generally treated crime against the society and not against the individual alone. Nonetheless, it would be pertinent to refer to paragraph 31(VI) of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]** wherein the Apex Court has held as under:

“31.

(I)....

(VI) *Offences under Section 307 of the IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving*

the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

In the light of the observations of the Apex Court, we have examined the charge-sheet and particularly the medical certificate of respondent No.2 which indicates that the injury sustained by him was simple in nature. Considering the allegations coupled with perusal of the medical certificate, we find that the provisions of Section 307 of the Indian Penal Code, 1860 are not applicable. Consequently, no fruitful purpose will be served by continuing with the prosecution.

5. In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh (supra)**, 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 criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

6. Accordingly, the the writ petition is allowed in terms of prayer clause (a) subject to payment of costs of Rs.30,000/- by the petitioners to the **"Shanti Avedna Sadan"** an institution that takes care of the advanced and terminally ill cancer patients. The petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the writ petition shall stand dismissed automatically without further reference to the Court.

7. Subject to above, the writ petition is disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)