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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1044 OF 2016

|                                 |                |
|---------------------------------|----------------|
| Darshan J. Wadke                | ...Applicant   |
| V/s.                            |                |
| The State of Maharashtra & Anr. | ...Respondents |

Mr.Niranjan S. Mundargi for the Applicant.  
Mr.K.V. Saste, A.P.P. for the State - Respondent No.1.  
Mr.Sheriyar Patel i/b Mr.Omneel A. Jadhav for the Respondent No.2.

**CORAM : A.S. OKA &**  
**R.D. DHANUKA, JJ.**  
**DATE : 7TH SEPTEMBER, 2016.**

**P.C. :-**

1. Rule. Learned A.P.P. waives service for the first respondent. Learned counsel appearing for the second respondent waives service. Forthwith taken up for final disposal.
2. The prayer in this application under section 482 of the Criminal Procedure Code, 1973 (for short "Cr.P.C") is for quashing the charge sheet and criminal proceedings for the offences punishable under sections 279, 337 and 338 of the Indian Penal Code read with section 184, 89(17) and 117 of the Motor Vehicle Act, 1988. Except for the offence punishable under section 279 of the Indian Penal Code, the other offences under the Indian Penal Code are compoundable.

3. The prayer for quashing is sought on the basis of a compromise between the applicant and the second respondent, who is the first informant. Today the second respondent has tendered an affidavit, in which he has relied upon the consent terms dated 6<sup>th</sup> September, 2016, a copy of which is annexed to the said affidavit. Both the applicant and the second respondent are personally present in the Court. Through their counsel, they state that the consent terms annexed to the affidavit of the second respondent have been signed by them and the contents thereof are true and correct. Under the consent terms, it is stated that the applicant has taken care of the entire expenditure on the medical treatment of the second respondent and has agreed to pay the additional compensation of Rs.1,05,000/- to the second respondent which amount has been kept in escrow with the advocate representing the second respondent.

4. We have perused the statement of the second respondent on the basis of which the first information report has been filed. At the relevant time, the second respondent was driving Indica Car which was being used as a tourist vehicle. He was proceeding on Mumbai – Ahmedabad Highway towards Virar. The incident took place after crossing Kashmira Over bridge, when the second respondent reached Delhi Darbar Signal. The allegation is that at that time, a motor car driven by the applicant came from the opposite

direction on the wrong side and gave a dash to the vehicle of the second respondent. As a result, he suffered injury and even there was damage caused to his car.

5. From the consent terms annexed to the affidavit tendered today, it appears that there is a complete settlement between the applicant and the second respondent and that the second respondent has been adequately compensated. Considering the peculiar facts of the case, the offence alleged cannot be said to be the one against the society at large. It cannot be said that the offence is of heinous nature.

6. In view of the complete settlement between the parties, this is a fit case where the principles laid down by the Apex Court in the case of **Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303** can be applied to the present case.

7. Hence, the application must succeed and we pass the following order :-

a). Rule is made absolute in terms of prayer clause (a), which reads thus :

“This Hon'ble Court be pleased to quash the proceedings in S.C. No.28229/2013 on the file of Ld. JMFC 6<sup>th</sup> Court, Thane, arising out of First Information Report bearing C.R. No.I – 200 of 2013, registered with Kashimira Police Station, Thane Rural u/s. 279, 337 & 338 of I.P.C. r/w 184, 89 (17), 117 of Motor Vehicle Act, in the interest of justice”

b). Needless to add that the second respondent will be entitled to the sum of Rs.1,05,000/- which is admittedly kept in escrow with the advocate representing the second respondent.

8. All concerned to act on the authenticated copy of this order.

**(R.D. DHANUKA, J.)**

**(A.S. OKA, J.)**