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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.258 OF 2014**

Bhaiyalal Chandresh Chauhan and Anr.	... Applicants
Vs.	
The State of Maharashtra and Anr.	... Respondents

Mr. Laxmikant M. Shukla for the Applicants.
Mrs. S.V. Sonawane, APP for the Respondent No.1.
Mr. Pradip M. Rajput for the Respondent No.2.

**CORAM : A.S. OKA &
ANUJA PRABHUDESSAI, JJ.**

DATE : 14th MARCH, 2017

P.C.

1 Rule. The learned APP waives service for the first respondent. The 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 Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing the charge sheet filed for the offences punishable under Sections 326, 323 and 504 read with Section 34 of the Indian Penal Code. The second respondent is the first informant. The first applicant and the second respondent are real brothers. On the earlier date, after perusing the medical certificate of the injury sustained by the second respondent, we

had directed the learned APP to place on record report of CT Scan of Brain of the second respondent. The CT Scan report reveals that there was no significant intracranial abnormality. It records that there was a depressed fracture of medial wall of right orbit (lateral wall of right ethmoid sinus). It also records that there was minimally depressed (3 mms) depression fracture of posterior part of inferior wall of right orbit.

3 Consent terms duly signed by the applicants and the second respondents and their respective Advocates are tendered on record and marked "C-2" for identification. The consent terms record that the first applicant is the real brother of the second respondent and the second applicant being the son of the first applicant is a nephew of the second respondent. Consent terms records that the applicants have paid a sum of Rs.25,000/- in cash to the second respondent as compensation on account of injury sustained by him. It is pointed out in the affidavit that the first applicant's wife has filed a private complaint in the Court of the Chief Judicial Magistrate at Jaunpur in which the second respondent's wife is shown as Accused No.3. There is a separate affidavit filed by Smt. Chintadevi Bhaiyalal Chauhan, the wife of the first applicant which is tendered on record today in which she has given an undertaking to withdraw the proceedings of Criminal Case No.254 of 2014 filed by her before the learned C.J.M. (II) at Jaunpur. We accept the said undertaking.

4 Perusal of the impugned FIR shows that the dispute is essentially a family dispute. The injuries sustained by the second respondent are not of serious nature. There appears to be an overall settlement between the applicants and the second respondent and therefore, even the first applicant's wife has given an undertaking to withdraw the private complaint in which the second respondent's wife is shown as accused.

5 In view of overall settlement of family dispute, this is a fit case to exercise power of this Court under Article 482 of the Code of Criminal Procedure, 1973 of quashing the proceedings in the light of the law laid down by the Apex Court in the case of of Gian Singh Vs. State of Punjab¹.

6 Hence, we pass the following order :-

ORDER

- (i) Undertaking of Smt. Chintadevi Bhaiyalal Chauhan – wife of the first applicant in the affidavit dated 14th March, 2017 tendered today and marked as Exhibit “A3” is accepted;

1 (2012) 10 SCC 303

(ii) Rule is made absolute in terms of prayer clause (a)

which reads thus :-

(a) The F.I.R. No 126 of 2012 of Oshiwara Police Station in CC no 6501710/PW/2012 and chargesheet pending before Ld. 65th Metropolitan Magistrate's Andheri Court Mumbai may be quashed against the Applicant in the interest of justice.”

(iii) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)