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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.1309 OF 2016

Arun Baburao Surve ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.Rabindra Kumar Yadav for the applicant
Dr.F.R.Shaikh, APP for the respondent No.1
Mr.Surendra M. Sharma for respondent No.2

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : MARCH 8, 2017

P.C.:

1 Rule. The learned APP waives service for the first respondent. The learned counsel 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 `Cr.PC.) is for quashing the FIR registered at the instance of the second respondent for the offence punishable under section 448 of the Indian Penal Code. As per sub-section 1 of section 320 of the Cr. PC, the offence punishable under section 448 is compoundable at the instance of the person in possession of the property trespassed upon. The second respondent was the person in possession of the property trespassed upon. There is an affidavit filed by the second respondent which is tendered across the bar today. We have perused the

said affidavit. The said affidavit discloses that the dispute between the parties was as regards the gala subject matter of the offence. Now, there is a settlement of the said dispute.

3 In any case, the alleged offence is compoundable offence which can be compounded at the instance of the second respondent. Hence, the application must succeed.

4 Hence, we pass the following order:

(I) Rule is made absolute in terms of prayer clause (A) which reads thus:

“(A) This Hon'ble Court be pleased to quash and set aside the FIR No.259/216 registered with the Vanarai Police Station, Mumbai for the aforesaid offences.”

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)