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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1472 OF 2016**

Shri. Chandan Hemant Vaze and Ors.	... Applicants
Vs.	
Bhagirath Harigraram Beniwal and Anr.	... Respondents

Mr. S.V. Kotwal i/by Mr. Ajit J. Kenjale a/w Mr. Sohit Gulabani for the Applicants.

Mr. Manoj Mohite i/by Mr. Devendra D. Pawar for Respondent No.1.

Mr. K.V. Saste, APP for the Respondent No.2.

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

DATE : 6th MARCH, 2017

PC.

1 Heard the learned counsel appearing for the applicants, the learned counsel appearing for the first respondent and the learned APP for the second respondent. Forthwith taken up for final disposal. The prayer in this application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report registered alleging commission of offences punishable under Sections 392, 363, 323, 504, 506 read with Section 34 of the Indian Penal Code. The first respondent is the first informant. There is an additional and common

affidavit filed by the applicants, the first respondent and the four victims of the offence. Apart from the said affidavit, the settlement terms have been also placed on record. A report has been submitted by the Assistant Police Inspector of Worli Police Station confirming signatures on the affidavits and the settlement terms.

2 According to the case of the first informant (the first respondent) who is working with Mangal Gas Service, Dahisar Road, Mumbai (E), on 8th November, 2016 in the morning, he came to the godown of his employer and started towards Waliv by a truck by carrying 150 cylinders. At about 12 noon, he handed over 55 cylinders to one Mr. Manphool Jodharam Bhishnoi. According to his case, at that time, the first applicant who was known to him and other three applicants came there and started abusing and assaulting the first informant. By snatching the key of the truck from him, by the same truck, he was taken to Narayan Gas Service at Nalasopara Phata. According to the first respondent, he was assaulted at that place. Thereafter, the applicants took away cylinders in the truck.

3 According to the version in the affidavits filed on record, the first applicant is the owner and distributor of Narayan HP Gas Agency. The dispute arose as the first applicant questioned the first

respondent as there was a dispute between the two agencies about the area of distribution. It is stated that as a result of the said dispute, the parties went to Kanher Police Station, but a complaint was not entertained. It is the case of the applicants and the first respondent that the first respondent was under an impression that gas cylinders were taken away by the applicants. In fact, cylinders were lying and kept near the Police Station. Affidavits placed on record state that there is a settlement in writing between the parties. As stated earlier, the settlement terms duly signed have been filed on record.

4 After having perused the application and the affidavits, we are satisfied that the offences punishable under Sections 363 and 392 of the Indian Penal Code are not made out. The other offences alleged are not of a serious nature. It appears that the incident was a result of the dispute between the first applicant and the first respondent as regards territorial jurisdiction of the gas agencies run by the first applicant and the employer of the first respondent. Now, there is a complete settlement of the dispute.

5 The first respondent on his own has paid a donation of Rs.25,000/- to the Maharashtra State Legal Services Authority, Mumbai. Therefore, we do not propose to pass a separate order for payment of

costs. Therefore, as held by the Apex Court in the case of Gian Singh Vs. State of Punjab¹, this is a fit case to exercise power under Section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass the following order :-

ORDER

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

“(a) This Hon'ble Court may be pleased to quash and set aside C.R.No. I-642/2016 filed by The Complainant/ Respondent No.1 in Waliv Police Station, Tal. Vasai, Dist. Palghar.”

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

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)

1 (2012) 10 SCC 303