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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1035 OF 2016

Amirali Hasanali Jetha & ors. ...Applicants

Vs.

The State of Maharashtra & ors. ...Respondents

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Mr. Niteen Pradhan i/by Ms. S.D. Khot, Advocate for the applicants.

Mrs. G.P. Mulekar, A.P.P. - State.

Mr. Sanjeev P. Kadam, Advocate for respondent Nos.2 and 3.

Mr. Ashish Bhandari, Advocate for respondent No.4.

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**CORAM : SMT. V.K. TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 17th JANUARY, 2018.

ORDER (PER SMT. V.K. TAHILRAMANI, ACTING C.J.):

The applicants are seeking quashing of FIR No. 242 of 2016 registered with Byculla Police Station and the proceedings relating thereto. The said case is under Section 304A read with 34 of the Indian Penal Code. The said case is

now pending before learned Metropolitan Magistrate, 25th Court, Sewree, Mumbai.

2. The complainant is the cousin of the deceased. It is his case that when his cousin Mangesh had climbed to paint the premises, he fell from a height of 18 ft. due to which he sustained injuries and died. The applicants are connected with the said premises and it is the case of the complainant that on account of negligence on their part the death occurred.

3. Heard learned Counsel for the applicants/original accused Nos.1 to 7, learned Counsel for the respondent Nos.2 to 4 and learned APP for the State.

4. All the applicants and the complainant are present before the Court. The respondent No.2/original complainant and respondent No.3- father of the deceased have filed affidavit before us which is taken on record and marked 'X' for identification. They have stated that due to sudden and unexpected death of deceased Mangesh the complaint was lodged alleging death by negligence. However, on verifying they

have confirmed that death of Mangesh was due to an accident. Hence, they have realized that the complaint was lodged on account of misunderstanding. It is further stated that the parties have amicably settled the matter. Thus, the complainant does not have any complaint against any of the accused persons. The complainant has further stated that he has no objection to the FIR No.242 of 2016 and the proceedings relating thereto being quashed.

5. Looking to the fact that the matter has been amicably settled between the parties and looking to the fact that the complainant does not want to pursue the case, we are of the opinion that no purpose would be achieved by continuing with the prosecution in the said case. In this view of the matter, FIR No. 242 of 2016 and the proceedings relating thereto are quashed.

6. The application is allowed in above terms.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)