

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1065 OF 2018**

|                                    |                |
|------------------------------------|----------------|
| Mr Anurag Godha                    | ... Applicant  |
| v/s                                |                |
| Mr Govind Lallan Kanojiya and anr. | ...Respondents |

Mr Anup Lahoti for Applicant.  
Mr Deepak Thakare, PP with Mr K.V. Saste, APP for State.  
Mr Chetan Alai for Respondent No.1.

Vijay  
Raghunath  
Date

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**CORAM: RANJIT MORE &  
SMT BHARATI H. DANGRE, JJ.**

**DATED : 19<sup>th</sup> SEPTEMBER 2018**

**P.C. :**

1. Heard learned counsel for the Applicant,  
Respondent No.1 and the learned APP.

2. The Application is filed for quashing and setting  
aside the proceeding arising out of the said FIR as Police Case  
No.603/PS/2018 against the present Applicant, for the  
offences punishable under section 279, 338 of IPC. The said  
case arises out of FIR No.57 of 2017 registered with Cuffe

vrdate

Parade police Station, Mumbai upon Respondent No.1's complaint against the Applicant.

3. The learned counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present Petition is filed for quashing the above FIR dated 21<sup>st</sup> August 2018, by consent of Respondents.

4. The Respondent No.1 is personally present in Court. He has filed his affidavit dated 5<sup>th</sup> September 2018. In paragraphs 9 and 10, he has given consent for quashing and setting aside C.R. No.57 of 2017 registered against the present Applicant for an offence punishable under sections 279, 338 of IPC.

5. In the light of the principles laid down by the Hon'ble Apex Court in the case of Narinder Singh Vs. State of

Punjab (2014 AIR SCW 2065), paragraph 24 is important, which reads thus :-

“24. The two rival parties have amicably settled the disputes between themselves and buried the hatchet. Not only this, they say that since they are neighbours, they want to live like good neighbours and that was the reason for restoring friendly ties. In such a scenario, should the court give its imprimatur to such a settlement ? The answer depends on various incidental aspects which need serious discourse. The legislators have categorically recognised that those offences which are covered by the provisions of section 320 of the Code are concededly those which not only do not fall within the category of heinous crimes but also which are personal between the parties. Therefore, this provision recognises where there is a compromise between the parties, the court is to act at the said compromise and quash the proceedings. However, even in respect of such offences not covered within the four corners of section 320 of the Code, the High Court is given power under section 482 of the Code to accept the compromise between the parties and quash the proceedings. The guiding factor is as to whether the ends of justice would justify such exercise of power, both the ultimate consequences may be acquittal or dismissal of indictment. This is so recognised in various judgments taken note of above.”

6. Accordingly, Petition is allowed in terms of prayer clause (b).

7. As the Police machinery and Court machinery was used by the parties to settle their private disputes as a corollary of differences of opinion, we find it would be appropriate to saddle the Applicant with cost of Rs.10,000/- which shall be paid to **“Tata Memorial Hospital”**, an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicant shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, Application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings shall be treated as non-est.

8. Since we have quashed and set aside the subject crime register, the Applicant is directed to be released forthwith if not required in any other crime.

**(SMT BHARATI H. DANGRE, J.)**

**(RANJIT MORE, J.)**