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| 1. | Sandip Laxman Kadam | | |
| 2. | Mohammed Azad Sher Ali Shaikh | ... | Applicants |
| | Versus | | |
| 1. | The State of Maharashtra | | |
| 2. | Heena Mistry | ... | Respondents |

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Mr. Shivam Mehra for the Applicant.
Ms. M. M. Deshmukh, APP for the State.
Ms. Heena Mistry Respondent No. 2- in Person through VC.
Mr. Ratique Mujawar, PSI, Ghatkopar Police Station.

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**CORAM : NITIN W. SAMBRE &
N.R. BORKAR, JJ.**

DATED : 7 NOVEMBER 2023

P.C. :-

Pursuant to the order dated 2 November 2023, the respondent No. 2 Ms. Heena Mistry present before the Court through virtual mode. According to her, she was indisposed and the said fact was conveyed to the other side counsel. According to her, the learned counsel for the applicants ought to have brought the said fact to the notice of this Court.

2. Apart from above, she states that she has every intention to settle the matter and is willing to stand by what is stated in consent affidavit dated 17 August 2023.

3. She further states that, she has no grievance against the company viz. H&M Hennes and Mauriz Private Limited. However, she submits that the conduct on the part of the applicants of stretching the matter for hearing on the last occasion inspite of she being indisposed is required to be dealt with by stern hand.

4. As the respondent/complainant has extended consent voluntarily and she has stood by what is stated in the consent affidavit, we are willing to accept the same.

5. Learned counsel for the applicants submits that he had no intention to misguide or put the respondent No. 2/complainant into hardship by insisting on hearing of the matter in her absence. Learned counsel for the applicants submits that he regrets for inconvenience caused to the respondent/complainant.

6. In view of aforesaid statement, we deem it appropriate to dispose of the matter by recording consent of the respondent thereby

agreeing for quashing of the FIR in Crime No. 364 of 2023 registered at Ghatkopar Police Station for the offence punishable under Section 379 of the Indian Penal Code.

7. In view of stand taken by the respondent No. 2/complainant, the criminal offence registered against the applicants cannot be taken to its logical end as the chances of achieving conviction against the applicants are remote and bleak.

8. In view of law laid down by the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr. reported in (2012) 10 SCC 303** and **Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in (2014) 6 SCC 466**, no purpose will be achieved in keeping the prosecution pending against the applicants particularly in view of the consent affidavit placed on record by the respondent/complainant. That being so, the present application stands allowed in terms of prayer clause (a) subject to payment of cost of Rs. 10,000/- to the Legal Services Authority.

9. The statement made by the learned counsel for the applicants that an amount of Rs. 15,000/- shall be remitted to the

respondent/complainant towards the legal expenses incurred by her is accepted. As such, the amount of Rs. 15,000/- be paid to the respondent No. 2/complainant within a period of one week from today.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)