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**(2017) 06 GUJ CK 0012**  
**In the Gujarat High Court**  
**Case No : 1547 of 2016**

VISHAL @ VASU BALDEVBHAI RABARI

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

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**Date of Decision :** 29-06-2017

**Acts Referred:**

[Code of Criminal Procedure, 1973](#), [Section 320](#) - Compounding of offences  
[Indian Penal Code, 1860](#), [Section 114](#),  
[Section 323](#), [Section 325](#), [Section 504](#), [Section 506\(2\)](#) - Abettor present when offence is committed - Punishment for voluntarily causing hurt - Punishment for voluntarily causing grievous hurt - Intentional insult with intent to provoke breach of the peace - Punishment for criminal ,intimidation  
[Scheduled Castes and Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#), [Section 3\(1\)\(10\)](#) -  
Gujarat Police Act, 1951, Section 135

**Citation :** (2017) 06 GUJ CK 0012

**Hon'ble Judges :** P.P.Bhatt

**Bench :** Single Bench

**Advocate :** RAHUL R DHOLAKIA, ?KSHITIJ M AMIN,?HANSA PUNANI

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## **Judgement**

1. The present appeal is filed by the appellant challenging the judgment and order dated 19.10.2016 passed by the learned 4th Additional Sessions Judge, Mehsana in Special Atrocity Case No.08/2013, whereby the appellant herein was prosecuted under Sections 323, 325, 504, 506(2) and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act and Section 3(1)(10) of the Atrocity Act. At the conclusion of the trial, the appellant is held guilty for the offence punishable under Section 325 of the Indian Penal Code. The appellant was directed to undergo

rigorous imprisonment of five years and fine of Rs.7,000/- and in default thereof, the appellant is required to undergo simple imprisonment for a period of six months.

2. With the consent of the parties, the present Criminal Appeal is taken up today for its final disposal.

3. Heard learned advocate for the appellant and learned advocate for the original complainant as well as learned APP for the respondent-State.

4. Learned advocate for the appellant submits that being aggrieved and dissatisfied with the aforesaid judgment and order, the appeal is preferred by the appellant on various grounds enumerated in the appeal memo, but during the pendency of the appeal, the matter is amicably settled between the appellant and the original complainant and now the complainant has no objection if the compounding of offence under Section 320 of the Code of Criminal Procedure, 1973 is permitted by this Court.

5. Learned advocate appearing for the original complainant also submits that the victim/first informant has filed an affidavit before this Court, wherein it is categorically stated that due to intervention of elderly member of the family, friends and other community/social workers, the matter is amicably settled and now the complainant has no objection, if the offence is compounded and the impugned judgment and order dated 19.10.2016 is quashed and set aside. It is also submitted that the contents of the affidavit are read over and explained to the complainant, who is present before this Court, and the same are admitted by him and the complainant was identified by learned advocate for the complainant.

6. Regard being had to the above submissions and looking to the facts and circumstances as also considering the affidavit filed by the victim/first informant as also considering the observations made in Paragraph Nos.9 to 15 by the Hon"ble Supreme Court given in the case of Khursheed Vs. State of Uttar Pradesh [2007 (12) SCC 68] as also the

observations made in Paragraph Nos.8 & 9 by the Hon''ble Supreme Court given in the case of Dasan Vs. State of Kerala [2014 (12) SCC 666], which were cited by the learned advocates for the parties, in the instant case, the offence under Section 325 of the Indian Penal Code is required to be compounded and accordingly, the judgment and order dated 19.10.2016 passed by the learned Trial Court is also required to be set aside. Accordingly, the appeal is allowed and the judgment and order dated 19.10.2016 passed by the learned 4th Additional Sessions Judge, Mehsana in Special Atrocity Case No.08/2013 is quashed and set aside. Accordingly, the appellant is ordered to be acquitted of the charges levelled against him and he is ordered to be released forthwith for the alleged offences if not required in any other offence. The bail and bail bond stands cancelled. Surety, if any, shall stand discharged. Record and Proceedings be sent back to the Trial Court concerned forthwith. Direct Service is permitted.