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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.325 OF 2016**

Mrs. Chandrawati Kanhaiyalal and Ors.	... Petitioners
Vs.	
The State of Maharashtra and Ors.	... Respondents

Mr. Kunal Tiwari i/by Mr. Kameshwar R. Tiwari for the Petitioners.
Dr. F.R. Shaikh, APP for the Respondent Nos.1 and 2.
Ms. Babita Tiwari for the Respondent No.4.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 5th OCTOBER, 2016

PC.

1 Heard the learned counsel appearing for the Petitioners.
Rule. The learned APP waives service for the first to third Respondents.
The learned counsel appearing for the fourth Respondent waives
service. Notice to the fifth Respondent is dispensed with. Forthwith
taken up for final disposal.

2 Prayer in this Writ Petition under Article 226 of the
Constitution of India read with Section 482 of the Code of Criminal
Procedure, 1973 (for short "Cr.PC.") is for quashing the First
Information Report registered at the instance of the fourth Respondent
alleging commission of offences under Sections 498A, 406 read with

Section 34 of the Indian Penal Code. On the last date, consent terms signed by the second Petitioner and the fourth Respondent along with their respective Advocates have been tendered on record. The second Petitioner and the fourth Respondent are husband and wife. Consent terms record settlement of the matrimonial dispute. Today, the learned counsel appearing for the parties have tendered across the Bar an application made by the second Petitioner and the fourth Respondent in Marriage Petition No.264 of 2014 filed by the second Petitioner in the Court of Civil Judge, Senior Division, Thane and order passed thereon which permits the parties to convert the said Petition into a Petition claiming divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. The second Petitioner and the fourth Respondent have filed separate affidavits reiterating settlement. The fourth Respondent has filed an affidavit stating that all her claims have been settled and, therefore, she has no objection for quashing the FIR. She has stated that she undertakes to withdraw the complaint under the Protection of Women from Domestic Violence Act, 2005 filed by her. We accept the statements in the aforesaid affidavits. The learned counsel appearing for the Petitioners and the learned counsel appearing for the fourth Respondent states that the second Petitioner and the fourth Respondent will not withdraw the consent for taking divorce by mutual consent. We accept the said statement as their undertakings.

3 In view of the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab¹, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass the following order :-

ORDER

- (i) The FIR bearing C.R.No.I/126/2015 registered at the instance of the fourth Respondent at Kasar Vadvli Police Station, Thane is hereby quashed and set aside;
- (ii) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)

1 (2012) 10 SCC 303