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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.723 OF 2016**

Mr. Sameer Razzak Chunawala

... Applicant

Vs.

The State of Maharashtra and Anr.

... Respondents

Mr. Niranjan Shrikant Mundargi for the Applicant.

Ms. M.H. Mhatre, APP for the Respondent No.1.

Mr. Manoj Shukla for the Respondent No.2.

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

DATE : 18th JULY, 2016

PC.

1. Heard the learned counsel appearing for the Applicant and the learned counsel appearing for the second Respondent. The prayer in this application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report registered vide C.R. No.135 of 2016 with Amboli Police Station, Mumbai for the offences under Section 354, 323, 509 and 506(II). The exercise of powers under Section 482 of the Cr.PC is sought on the ground of alleged settlement. There is an affidavit in reply filed by the second Respondent. The second Respondent is a foreign national. In the affidavit, she has stated that she submitted a written complaint against

the Applicant with Foreign Regional Registration Office on 12th April, 2016 in respect of the conduct of the Applicant alleged in the FIR, and sought strong action against the Applicant. Without disclosing what is the nature of settlement, in paragraph 4 of the said affidavit-in-reply, there is a bald statement that she has resolved all disputes with the Applicant.

2 Reliance is placed on decision of the Apex Court in the case of Gian Singh Vs. State of Punjab and Another¹. The contention is that the offence is not against the society at large and nature of the offence is not heinous.

3 We have perused the decision of the Apex Court in the case of *Gian Singh*. Heinous and serious offences have been categorised separately from the other offences which are overwhelming and predominantly of civil nature. In paragraph 61 of the said decision, the Apex Court held that the offences which are heinous or serious are not private in nature and have a serious impact on the society. The Apex Court held that in such case, the power of quashing on the ground of settlement cannot be exercised.

1. (2012) 10 SCC 303

4 As the prayer for quashing is not on merits, we have not considered the merits of the case. Firstly, the offence is a serious offence punishable under Section 354 of the Indian Penal Code. Moreover, the victim women is a foreign national who was forced to seek help of the Foreign Regional Registration Office for protecting herself from the Applicant. We do not agree with the submission that the alleged offence will not fall in the first category of paragraph 61 of the case of *Gian Singh*.

5 Even assuming that the case will fall in the second category, this Court has to be satisfied that there is a compromise between the offender and the victim. The fact that there is a compromise cannot be inferred only on the basis of a bald statement made by the first informant. There are no material particulars of the settlement placed on record of the affidavit. In paragraph 2, the second Respondent has merely stated that she does not wish to pursue the case.

6 Therefore, we are not satisfied that the case will fall in the second category in paragraph 61 of the case of *Gian Singh*. Secondly, we are not satisfied that there is any genuine settlement between the Applicant and the second Respondent.

7 As stated earlier, the offence punishable under Section 354 of the Indian Penal Code becomes more serious as a woman the victim is a foreign national who is on visit to India.

8 The Apex Court has repeatedly held that the jurisdiction under Section 482 of the Cr.PC is discretionary and has to be exercised very sparingly in rare cases. This is not a case to exercise the said jurisdiction on the ground of settlement set out in this application. Accordingly, the application is rejected. We, however, make it clear that no observation made in this application shall be considered as an observation on merits of the case.

(A.A. SAYED, J)

(A.S. OKA, J)