

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1910 OF 2021

Asad Omar Solanki and others. ... Petitioners.
V/s.
The State of Maharashtra and another. ... Respondents.

Mutahhar Khan with Ms.Neha Shah i/b. Rohan Chabra
for the Petitioners.
Mr.K.V.Saste, APP for the Respondent- State.
Genevieve D'Souza i/b. Diamondwala & Co. for Respondent No.2.

CORAM : **NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : **29 November 2021.**

P.C. :

Heard the learned counsel for the parties. At the joint request, petition is taken up for disposal.

2. The Petitioners have filed this petition for quashing of FIR No.155/2021 lodged by Respondent No.2 and registered with Juhu Police Station. The Petitioner No.1 is the husband of Respondent No.2 and Petitioner Nos.2 and 3 are the mother-in-law and father-in-law of Respondent No.2. The learned counsel for the Petitioners and the learned counsel for Respondent No.2 state that

the ground for quashing of FIR is the consent given by Respondent No.2 pursuant to the settlement between them. The learned counsel for the parties relied upon the decision of the Apex Court in the case of *Gian Singh v. The State Of Punjab*¹ wherein the Apex Court has observed thus :-

“The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong

¹ (2012) 10 SCC 303

is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

3. In the light of the request, we have perused the contents of the FIR under section 498A, 406, 420, 323, 506(II) read with section 34 of the Indian Penal Code. In the FIR, the Respondent No.2 has narrated various instances that she was subjected to physical and mental cruelty and abortion also took place. Respondent No.2 has also stated that she was subjected to demand of dowry. An affidavit is filed by Respondent No.2 on 6 October 2021 annexing the Memorandum of Understanding. The learned counsel for Respondent No.2 states that Respondent No.2 is present in the Court and has confirmed that the settlement has taken place without coercion. The learned counsel for Respondent No.2 identifies the Complainant/ Respondent No.2 and points out that an affidavit is filed.

4. Having perused the contents of the FIR and contents of the Memorandum of Understanding that is placed before us, we find that the parties have referred to Khulanama and contents therein. They have, in detail, specified the monetary aspects of settlement and that Respondent No.2 will support in quashing of the FIR. Genesis of the dispute is therefore a domestic dispute and the case, therefore, falls within the parameters laid down by the Apex Court in *Gian Singh* and, thus, the contention of the learned counsel for the Petitioners and the learned counsel for Respondent No.2 will have to be accepted. Nothing contrary is shown to us to hold otherwise.

5. In the light of above observation, writ petition is allowed in terms of prayer clause (a) which reads thus:

(a) This Hon'ble Court be pleased to pass an order and set aside and quash the First Information Report bearing No.155/21 lodged/ registered by the Respondent No.1 at the instance of the Respondent No.2.

6. Petition is disposed of as above.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)