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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 219 OF 2022

Ujwal A. Sharma and ors.. ... Petitioners
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Chetan Alai for the Petitioners.
Mrs.A.S. Pai, PP for the Respondent/State.
Ms. Priya Gajare for Respondent No.2.

CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.
DATE : 13 JULY 2022.

P.C.

. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.523 of 2019 (hereinafter referred to as “FIR”, for short) dated 5 August 2019 registered at Manpada Police Station, Thane against the Petitioners for the offences punishable under Sections 498-A, 406, 504 and 506 read with 34 of Indian Penal Code and Regular Criminal Case No.39 of 2019 pending on the file of Judicial Magistrate First Class, Kalyan arising out of the said FIR.

2. The aforesaid crime came to be registered at the instance of Respondent No.2, who has alleged that she was subjected to mental

and physical cruelty at the hands of her husband and in-laws. The Petitioner No.1 is the husband of Respondent No.2 and the Petitioner Nos.2,3 and 4 are her mother-in-law, father-in-law and sister-in-law respectively.

3. The learned Counsel for the Petitioners and the Respondent No.2 jointly submit that the parties have amicably settled the dispute. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. The learned Counsel for the parties submit that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Gian Singh vs. State of Punjab*¹.

4. Respondent No.2 has filed consent affidavit dated 2 March 2022. Respondent No.2 has stated that pursuant to amicable settlement, the Petitioner No.1 agreed to pay amount of Rs.1150000/- towards permanent alimony. The Respondent No.2 has stated that out of Rs.1150000/-, the Petitioner No.1 has paid her the sum of Rs.575000/-. Respondent No.2 has stated that she has no objection if the FIR and criminal case in question are quashed in view of the settlement arrived at between the parties.

5. The Hon'ble Supreme Court in the case of *Gian Singh (supra)* has held :

¹ (2012) 10 SCC 303

“But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a 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 is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of criminal case would put the 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.”

6. We have examined the facts of the present case in the light of law laid down by the Hon'ble Supreme Court in *Gian Singh's* case. It appears that Petitioner No.1 and Respondent No.2 have filed the petition for divorce by mutual consent. The Petitioner No.1 has agreed to pay Rs.1150000/- to Respondent No.2 towards permanent alimony and has even paid Rs.575000/- out of said amount. The main reason for filing of the FIR appears to be matrimonial discord. The allegations are totally of personal nature. In view of the settlement between the parties, Respondent No.2 is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. Nothing fruitful will therefore come out of the prosecution in question. Apart from it, if the FIR and the criminal

case are not quashed, the settlement arrived at between the parties would be disrupted. Considering these facts and circumstances, the petition deserves to be allowed. Hence, the Petition is allowed in terms of prayer clause (a), which reads thus:

“a) This Hon’ble Court be pleased to quash and set aside the FIR bearing No.523/2019 of Manpada police station and the impugned proceedings in R.C.C. No.390/2019 pending before the Court of Judicial Magistrate First Class, Kalyan.”

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)