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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 60 OF 2022**

Sachin V. Vishwakarma and ors. ... Applicants
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Mohit R. Salvi for the Applicant.
Mrs. M.H. Mhatre, APP for the Respondent/State.
Mr. S.S. Suryawanshi i/b R.M. Darvesh for Respondent No.2

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

P.C.

. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.99 of 2017 (hereinafter referred to as "FIR", for short) dated 29 June 2017 registered at Kanjurmarg Police Station, Mumbai against the Applicants for the offences punishable under Sections 498-A, 323, 377, 406 504 and 506 read with 34 of Indian Penal Code and Criminal Case No. PW/169/2018 pending on the file of Metropolitan Magistrate, 53rd Court, Mulund, Mumbai 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 Applicant No.1 is the husband of Respondent No.2 and the Applicant Nos.2,3, 4 and 5 are her father -in-law, mother-in-law, sister-in-laws respectively.

3. The learned Counsel for the Applicants and the Respondent No.2 jointly submit that the parties have amicably settled the dispute. It is submitted that the parties have filed the consent terms in the petition filed for divorce before the Family Court at Bandra, Mumbai. 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 submits that 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 11 February 2022. Respondent No.2 has stated that pursuant to amicable settlement, they have filed the petition for divorce by mutual consent before the Family Court and the Applicant No.1 has deposited the amount of Rs.350000/- before the Family Court towards the permanent alimony. 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.

1 (2012) 10 SCC 303

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

“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 Applicant No.1 and Respondent No.2 have filed the petition for divorce by mutual consent. The Applicant No.1 has deposited the amount of Rs.350000/- before the Family Court towards permanent alimony. 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 prosecution in question is not quashed, the settlement arrived at between the parties would be disrupted. Considering these facts and circumstances, the application deserves to be allowed. Hence, the Criminal Application is allowed in terms of prayer clause (a), which reads thus:

“a) This Hon’ble Court may on such terms and conditions as this Hon’ble Court may deem fit and proper, quash Police Case PW/169/2018 filed against the Applicants at Ld. Metropolitan Magistrate, 53rd Court, Mulund, Mumbai for the offences U/s. 498-A, 377, 406, 323, 504, 506 and 34 of Indian Penal Code as both the parties have decided to settle the dispute amicably between them.”

7. Criminal Application is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)