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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 791 OF 2022**

Nitesh D. Jain ... Petitioner
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Devendra S. Rajapurkar for the Petitioners.
Mr. J.P. Yagnik, APP for Respondent No.1 /State.
Mr. Satyaram G. /b Ms Rimpal Trivedi for the Respondent No.2.

**CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.**

DATE : 10 AUGUST 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.313 of 2021 (hereinafter referred to as “FIR”, for short) dated 20 August 2021 registered at Malabar Hill Police Station, Mumbai against the Petitioner and one Arvind Dedhiya for the offences punishable under Sections 420, 465, 467, 468, 471 read with 34 of Indian Penal Code.

2. The aforesaid crime came to be registered at the instance of Respondent No.2. The Petitioner is the husband of the Respondent

No.2. According to Respondent No.2 due to matrimonial dispute they were residing separately. According to the Respondent No.2, on 26 November 2012, she took Insurance Policy No.884046907 from Life Insurance Corporation of India. It is alleged that the Petitioner got assigned the said policy in his name by forging her signature on assignment form in connivance with Insurance Agent Anand Dedhiya.

3. The learned Counsel for the Petitioner and the Respondent No.2 jointly submit that the parties have amicably settled the dispute and now they are cohabiting together. 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 *Narinder Singh and ors vs. State of Punjab and anr*¹.

4. The Respondent No.2 has filed the consent affidavit 27 January 2022. Respondent No.2 has stated that pursuant to amicable settlement, she went back to her matrimonial home and they are cohabiting together. Respondent No.2 has stated that she has no objection if the FIR in question is quashed in view of the settlement arrived at between the parties.

1 (2014) 6 SCC 466

5. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*² has held :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious

² (2014) 6 SCC 466

impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

6. We have examined the facts of the present case in the light of principles laid down by the Hon’ble Supreme Court in the case of *Narinder Singh (supra)*. The FIR appears to be outcome of matrimonial dispute. 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. Considering these facts and circumstances, the petition deserves to be allowed. Hence, Writ Petition is allowed in terms of prayer clause (c), which reads thus:

“c) This Hon’ble Court be pleased to quash and set aside the F.I.R. bearing No.313 of 2021 registered with Malabar Hill Police Station, Mumbai.”

7. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)