

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 918 OF 2020**

Pradeep Kishor Sambre and others ... Petitioners

Versus

The State of Maharashtra and another ... Respondents

.....

Mr. Ravi Dwivedi alongwith Ms. Heena Mistry for the Petitioners.

Mr. J.P. Yagnik, APP for the State.

Mr. Dinesh Vishwakarma instructed by Mr. D.V. Saroj for
Respondent No.2.

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

DATED : 24 AUGUST 2022

P.C. :-

The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 is filed to quash the First Information Report M.E.C.R. No. 02 of 2019 (hereinafter referred to as “FIR”, for short) dated 17 July 2019 registered at Kherwadi Police Station, Bandra (East), Mumbai against the Petitioners for the offence punishable under Sections 498A, 406, 506, 504 and 511 r/w. 34 of the Indian Penal Code, 1860.

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 the Petitioners. The Petitioner No.1 is the husband of the Respondent No.2. Petitioner Nos.2 to 4 are her in-laws.

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. The Respondent No.2 has filed consent affidavit dated 24 August 2022. She has stated that pursuant to settlement she has received an amount of Rs.800000/- towards permanent alimony. The 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.

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. The main reason for filing of the FIR appears to be matrimonial discord which the parties have now settled and Respondent No.2 has stated that she has received amount of Rs.800000/- towards permanent alimony. The allegations are totally of personal in 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 is not

quashed, the settlement arrived at between the parties would be disrupted. Considering these facts and circumstances, the Writ Petition deserves to be allowed. Hence, the Writ Petition is allowed in terms of prayer clauses (a), (b), (c) and (d) which reads thus:

“a) That this Hon’ble Court be pleased to call for records/papers and proceedings bearing Application No.107/SW/2019 pending before the learned Metropolitan Magistrate, 32nd Court at Bandra, Mumbai.

b) That this Hon’ble Court be pleased to call for records/papers and proceedings from Kherwadi Police Station of F.I.R. MECR No.02/2019 registered with Kherwadi Police Station, Bandra, Mumbai.

c) This Hon’ble Court on satisfying itself as to the correctness and legality of the order dated 15/06/2019 passed in application under section 156(3) at “ANNEXURE-A” hereto be quashed and set aside and consequently any report filed by investigation officer of Kherwadi Police Station, be quashed and set aside.

d) This Hon’ble Court on satisfying itself as to the correctness and legality of the First information Report “ANNEXURE-B” hereto be quashed and set aside the F.I.R. bearing M.E.C.R. No.02/2019 dated 17/07/2019 registered at Kherwadi Police Station, Bandra (East), Mumbai.

7. The Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
PRASHANT
DHURI
Date:
2022.09.19
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