

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 599 OF 2022**

Mohammad Javed Noormohammad and others ... Petitioners

Versus

The State of Maharashtra and another ... Respondents

.....

Mr. A.R. Maurya instructed by ARM Legal for the Petitioners.

Mr. Y.M. Nakhwa, APP for the State.

Mr. Vikram Singh instructed by Mr. Rajesh Kadam for Respondent No.2.

.....

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

DATED : 22 AUGUST 2022

P.C. :-

. The present Writ 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 No. 201 of 2016 (hereinafter referred to as “FIR”, for short) dated 12 April 2016 registered at Oshiwara Police Station against the Petitioners for the offence punishable under Sections 498A, 323, 506(2) and 406 r/w. 34 of the Indian Penal Code, 1860 and Criminal Case No.3201/PW/2016 pending on the file of Metropolitan Magistrate’s Railway Court at Andheri, 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 Petitioner No.1 is the husband of Respondent No.2. Petitioner Nos.3 to 7 are the in-laws of Respondent No.2. Petitioner No.2 was father-in-law of Respondent No.2 who died on 1 December 2021.

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 pursuant to amicable settlement, the Petitioner No.1 and Respondent No.2 are residing 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 *Gian Singh vs. State of Punjab*¹.

4. The Respondent No.2 has filed consent affidavit dated 22 August 2022. The Respondent No.2 has stated that she is residing with Petitioner No.1. The Respondent No.2 has thus stated that she has no objection if the FIR in question is quashed.

5. The Hon'ble Supreme Court in the case of *Gian Singh*

1 (2012) 10 SCC 303

(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. The main reason for filing of the FIR appears to be matrimonial dispute, which the parties have now resolved and Petitioner No.1 and Respondent No.2 are residing together. 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.

Considering these facts and circumstances, the petition deserves to be allowed. Hence, the Writ Petition is allowed in terms of prayer clause (a), which reads thus:

“a) That this Hon’ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the like nature of mandamus under Article 226 of the Constitution of India and under the inherent power under section 482 of Criminal Procedure Code be pleased to quash and set aside the Criminal Case No.3201/PW/2016 including FIR bearing No.201 of 2016 registered with Oshiwara Police Station and chargesheet thereto at ANNEXURE-I hereto by consent of the parties concern, and/or to pass such other and further orders as this Hon’ble Court may deem fit and proper in the interest of justice.”

7. The Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI
Digitally signed
by KANCHAN
PRASHANT
DHURI
Date:
2022.09.19
16:54:40 +0530