DINESH SADANAND SHERLA
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Date: 2022.08.10 11:00:14 +0500

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1461 OF 2020

Gopinath Kurup and ors. … Petitioners
V/s.
State of Maharashtra and anr. … Respondents

Mr. Mohan M. Pillai i/b Ms Madhuri Pillai for the Petitioner.
Mr. K.V. Saste, APP for the Respondent No.1 – State.
Ms. Arusha A. Kale i/b Associates of Krishnaveni Krishna for the Respondent No.2.

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

DATE : 3 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.148 of 2019 (hereinafter referred to as "FIR", for short) dated 2 March 2019 registered at Kolsewadi Police Station, Thane against the Petitioners for the offences punishable under Sections 498-A and 406 read with 34 of Indian Penal Code and criminal case bearing R.C.C. No. 22 of 2020 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 *inter alia* alleged that she was subjected to mental and physical cruelty at the hands of her husband and in-laws. The Petitioner No.2 is the husband of Respondent No.2 and Petitioner Nos.1, 3 to 5 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 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. The Respondent No.2 has filed the consent affidavit dated 31 March 2022. Respondent No.2 has stated that she has no objection if the criminal case and FIR 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 :

> *"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*

1 (2012) 10 SCC 303

> *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. 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 criminal case in question is 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 (b), which reads thus.

> *"b) This Hon'ble Court be pleased to call for the records and proceedings in R.C.C. No.22/2020 arising out of C.R. I-1130 of 2019 registered with Kolsewadi Police Station, Kalyan*

for alleged offences u/s. 498-A, 406 and 34 IPC and after going through its legality propriety and/or maintainability , the said Chargesheet be quashed and set aside."

7. Writ Petition is disposed of.

(N.R. BORKAR, J.) (NITIN JAMDAR, J.)