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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 941 OF 2022

Mohammed Aamir Zakir Hussain

and ors.

... Petitioners

V/s.

The State of Maharashtra and anr.

... Respondents

Ms Kajal Sarvaiya for the Petitioners.

Mrs. S.D. Shinde, APP for the Respondent – State.

Mr. Rishi N. Bhatt i/b Mr. Saquib Khan for Respondent No.2.

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

DATE : 23 JUNE 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.753 of 2017 (hereinafter referred to as “FIR”, for short) dated 5 December 2017, registered at Malwani Police Station, Mumbai for the offences punishable under Sections 498-A, 324, 323, 504 and 506 read with 34 of Indian Penal Code.

2. The Petitioners are the Accused in the aforesaid crime which came to be registered at the instance of Respondent No.2/Complainant. Petitioner No.1 is the husband of Respondent No.2 and Petitioner Nos.2 to 4 are her sister-in-law, mother-in-law and father-in-law respectively.

3. The learned Counsel for the Petitioners submits that the parties have amicably settled the dispute. It is submitted that the parties have filed consent terms in proceedings filed by Respondent No.2 under the provisions of Protection of Women from Domestic Violence Act, 2005 and the learned Metropolitan Magistrate accepted the same. The learned Counsel appearing for the Respondent No.2 has not disputed these facts.

4. This Court by order dated 10 June 2022 directed Respondent No.2 to remain present for interaction. Today, we have interacted with Respondent No.2. The act of Respondent No.2 to enter into consent terms appears to be voluntary. The Respondent No.2 has stated that she has no objection for quashing the FIR in question, in view of settlement arrived at between the parties.

5. We have perused the FIR. The main reason for filing of FIR by Respondent No.2 appears to be matrimonial discord. The allegations are totally personal in nature. Even otherwise in view of the settlement between the parties, the Respondent No.2 is not

going to support the prosecution case. Thus, nothing fruitful will come out of the prosecution in question.

6. The Hon'ble Supreme Court in *Gian Singh vs. State of Punjab*¹ 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.”

7. The dictum in *Gian Singh's* case is squarely applicable to the facts and circumstances of the present case and thus petition deserves to be allowed. Hence, the Petition is allowed in terms of prayer clause (a), which reads thus:

“a) That this Hon'ble Court may pass appropriate orders to issue appropriate writs/orders/directions and quash and set aside FIR No. 753 of 2017 registered with

1 (2012) 10 SCC 303

Malvani Police Station and all other proceedings, including Charge Sheets if any filed, arising out of and from the said FIR registered with Malvani Police Station, Mumbai and/or pending before the Hon'ble Ld. Metropolitan Magistrate, 24th Court, Borivali."

8. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)