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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 274 OF 2022

Jitendra Kumar Mishra and ors. ... Applicants
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Pradeep Dube i/b Mr. Mohit Salvi for the Applicants.
Mr. J.P. Yagnik, APP for the Respondent No.1 - State.
Mr. Hrishikesh Tambat for Respondent No.2.

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

DATE : 7 JULY 2022.

P.C.

. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.419 of 2021 (hereinafter referred to as "FIR", for short) dated 7 December 2021 registered at Kharghar Police Station, Navi Mumbai against the Applicants for the offences punishable under Sections 498-A, 406, 323, 504 and 506 read with 34 of Indian Penal Code.

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

Applicant No.1 is the husband of Respondent No.2. The Applicant Nos.2,3,4 and 5 are brother-in-law, sister-in-law, mother-in-law and and father -in-law of Respondent No.2 respectively.

3. The learned Counsel for the Applicants and the Respondent No.2 jointly submit that the parties have amicably settled the dispute. It is submitted that the parties have filed the consent terms in the petition filed by them for divorce under Section 13-B of the Hindu Marriage Act, 1955 before the learned Civil Judge Senior Division at Panvel Dist. Raigad. 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. It appears that by judgment and order dated 28 February 2022, the learned Joint Civil Judge (Senior Division) decreed the petition for divorce. Respondent No.2 has filed consent affidavit dated 14 March 2022. Respondent No.2 has stated that pursuant to amicable settlement, she has received amount of Rs.900000/- towards permanent alimony. 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 (2012) 10 SCC 303

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 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 FIR 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 (a), which reads thus:

“a) This Hon’ble Court may on such terms and conditions as this Hon’ble Court may deem fit & proper, quash FIR No.419/2021 at Kharghar Police Station filed against the Applicants for the offences U/s.498-A, 406, 323, 504, 506 and 34 of Indian Penal Code as both the parties have decided to settled the dispute amicably between them.”

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)