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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 767 OF 2022**

Azim Rafi Shaikh and ors.

... Petitioners

V/s.

State of Maharashtra and ors.

... Respondents

Mr. Ahmed N. Shaikh for the Petitioners.

Mrs. A.S. Pai, PP for the Respondents – State.

Ms Dhanashree Hublikar i/b YMK Legal for Respondent No.3.

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

DATE : 26 JULY 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.551 of 2017 (hereinafter referred to as “FIR”, for short) dated 10 November 2017 registered at Bandra Police Station, Mumbai against the Petitioners for the offences punishable under Sections 498(A), 406, 323, 504, 506 read with 34 of Indian Penal Code, 1860 and Sections 2 and 6 of Black Magic Act, 2013 and Criminal Case No.1667/PW/2018 pending on the file of Metropolitan Magistrate, 12th Court, Bandra, Mumbai 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.1 is the husband of Respondent No.2. The Petitioner Nos.2 to 5 are her in-laws.

3. The learned Counsel for the Petitioners and the learned Counsel for Respondent No.2 jointly submit that the parties have amicably settled the dispute and pursuant to the said settlement Petitioner No.1 and Respondent No.2 have taken divorce in accordance with Muslim Law. 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 parties have filed the consent terms on record. In addition to it, the Respondent No.2 has filed consent affidavit dated 26 July 2022. The Respondent No.2 stated that she has entered into Mubarat-Talaq (Mutual Consent Divorce) with Petitioner No.1 to dissolve their marriage as per the Muslim Shariat and Tenets of Mohammedan Law. It is stated that the Petitioner No.1 has paid to her amount of Rs.280000/- towards permanent alimony.

1 (2012) 10 SCC 303

Respondent No.2 has stated that she has no objection if the FIR and criminal case 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 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.

“a) That this Hon’ble Court may be pleased to issue an appropriate writ, order and direction, thereby, quashing the Chargesheet/F.I.R. No. 551/2017 lodged with Bandra Police Station, Mumbai bearing C.C. No. 1667/PW/2018 pending before Ld. M.M. 12th Court, Bandra, Mumbai against the Petitioners above named;”

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)