

Versus

The State of Maharashtra and another ... Respondents

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Mr. Manoj S. Mhambrey for the Petitioners.

Mrs. M.H. Mhatre, APP for the State.

Ms. Asha Kanzariya instructed by Mr. Vijay Upadhyay for Respondent No.2.

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

DATED : 20 AUGUST 2022

P.C. :-

The present 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. 622 of 2016 (hereinafter referred to as “FIR”, for short) dated 27 December 2016 registered at Malad Police Station, Mumbai against the Petitioners for the offence punishable under Sections 498A, 406, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Criminal Case No.1596/PW/2019 pending on the file of Learned Metropolitan Magistrate 24th Court at Borivali, 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. The Petitioner No.1 is the husband of Respondent No.2. Petitioner Nos.2 and 3 are the in-laws of Respondent No.2.

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 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. 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 :

1 (2012) 10 SCC 303

“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. It appears that Petitioner No.1 has filed the Petition for divorce which now the parties have converted into Petition for divorce by mutual consent. The Petitioner No.1 has deposited an amount of Rs.8000000/- towards permanent alimony and maintenance of child. The main reason for filing of the FIR appears to be matrimonial discord. 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. Apart from it, if the FIR and the criminal case are 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) That by issuing appropriate writ or direction the proceedings against the Petitioners in C.R.No.622 of 2016 of the Malad Police and the consequent proceeding Numbered as Case No.1596/PW/2019 pending in Metropolitan Magistrate 24th Court at Borivali, Mumbai be quashed and set aside.”

7. The Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
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