

DINESH
SADANAND
SHERLA
Digitally
signed by
DINESH
SADANAND
SHERLA
Date:
2022.07.18
10:44:43
+0500

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1343 OF 2022**

Viral P. Savla and ors.

... Petitioners

V/s.

The State of Maharashtra and anr.

... Respondents

Mr. Shreeram Shirsat a/w. Mr. Amandeep Singh Sra for the
Petitioners.

Mrs.A.S. Pai, PP for the Respondent/State.

Mr. Kanishk Waghmare for Respondent No.2.

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

DATE : 13 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.49 of 2020 (hereinafter referred to as "FIR", for short) dated 27 January 2020 registered at Pantnagar Police Station, Mumbai against the Petitioners for the offences punishable under Sections 498-A, 406, 323, 504 and 506 read with 34 of Indian Penal Code and Criminal Case No.1391/PW/2021 pending on the file of learned Metropolitan Magistrate, Vikhroli, Mumbai arising out of 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 and in-laws. The Petitioner No.1 is the husband of Respondent No.2 and the Petitioner Nos.2 and 3 are her father-in-law and mother-in-law respectively. Petitioner No.4 is the husband of sister-in-law 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 the parties have filed the consent terms in the petition filed for divorce before the Family Court at Bandra, Mumbai. 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. Respondent No.2 has filed consent affidavit dated 1 July 2022. Respondent No.2 has stated that pursuant to amicable settlement, the Petitioner No.1 has paid the sum of Rs.100000/- towards the permanent alimony. 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.

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 and criminal case in question are not quashed, the settlement arrived at between the parties would be disrupted. Considering these facts and

circumstances, the petition deserves to be allowed and the same is allowed. Consequently, the FIR and criminal case in question are quashed and set aside.

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)