

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1867 OF 2022**

Amit T. Agarwal and ors.

... Petitioners

V/s.

State of Maharashtra and anr.

... Respondents

Ms Parul Vedak for the Petitioner.

Mrs. M.H. Mhatre, APP for the Respondent No.1 – State.

Ms Gayatri Gokhale i/b Mr. Santosh Adukia for the Respondent No.2.

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

DATE : 15 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.217 of 2015 (hereinafter referred to as “FIR”, for short) dated 23 April 2015 registered at Santacruz Police Station, Mumbai against the Petitioners for the offences punishable under Sections 420, 498-A, 269, 270 and 406 read with 34 of Indian Penal Code and Criminal Case No. 547/PW/2017 pending on the file of Chief Metropolitan Magistrate, 71st Court at Bandra 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

This order is corrected in pursuance to speaking to minutes order dated 26 July 2022

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 8 are her in-laws.

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 submits that 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 the consent affidavit dated 11 May 2022. 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

1 (2012) 10 SCC 303

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 and Respondent No.2 have filed the petition for divorce by mutual consent. The Petitioner No.1 has agreed to pay Rs.7500000/- to Respondent No.2 towards permanent alimony and has even paid Rs.5000000/- out of said amount. 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 (a), which reads thus.

“a) That this Hon’ble Court be pleased to issue appropriate writ, order and direction directing the quashing of FIR No.217/2015 registered u/s420, 406, 498-A, 269, 270, 34 of IPC registered by the Respondent No.1 at the instance of Respondent No.2 and the Chargesheet filed by Investigating Officer (CC No.547/PW/2017) on such terms as this Hon’ble Court may deem fit and proper.”

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)