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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2100 OF 2022**

Alpana Hansrajani @ Alpana Mukherjee ... Petitioner

V/s.

The State of Maharashtra and anr. ... Respondents

Mr. Deepak Mane for the Petitioner.

Mr. Y.M. Nakhwa, APP for the Respondent – State.

Ms Sarah Kapadia i/b Vesta Legal for the Respondent No.2.

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

DATE : 30 JUNE 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 to quash the First Information Report No.88 of 2017 (hereinafter referred to as “FIR”, for short) dated 21 June 2017, registered at Gamdevi Police Station, Mumbai against the Petitioner for the offences punishable under Sections 66C of the Information Technology Act and Section 419 of the Indian Penal Code.

2. The aforesaid crime came to be registered at the instance of Respondent No.2/Complainant. The Respondent No.2 and the Petitioner are husband and wife.

3. The learned Counsel for the Petitioner 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 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. It appears that on the basis of consent terms, the Family Court has already passed the decree of divorce. It further appears that the Respondent No.2 has deposited the amount of Rs.5700000/- towards the permanent alimony. Respondent No.2 has filed consent affidavit dated 19 April 2022. Respondent No.2 has stated that he has no objection if the FIR in question is 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

1 (2012) 10 SCC 303

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) That this Hon’ble Court may be pleased to pass an orders quashing the following criminal complaint/case FIR No.88/2017 lodged with Gamdevi Police Station, for which case No. 408/PW/2018 is pending in the 40th Metropolitan Magistrate’s Court at Girgaon, Mumbai under section 482 of the Code of Criminal Procedure.”

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)