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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
WRIT PETITION NO. 2900 OF 2021**

Dhiraj R. Damare

... Petitioner

V/s.

The State of Maharashtra and anr.

... Respondents

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Mr. Anand Shalgaonkar and Mr. K.S. Navale i/b Mr. Rohan Karknade for the Petitioners.

Mrs. S.D. Shinde, APP for the Respondent No.1 – State.

Mr. Roshan M. Chavan i/b Mr. Shankar Deshmukh for the Respondent No.2.

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

**DATE : 8 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.39 of 2021 (hereinafter referred to as “FIR”, for short) dated 16 January 2021 registered at Hinjawadi Police Station, Pimpri -Chinchwad against the Petitioner for the offence punishable under Sections 308, 323 and 504 of the Indian Penal Code.

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

3. According to the Respondent No.2, on 12 January 2021 in the afternoon, the Petitioner asked her to make phone call to her mother-in-law. As she was busy in her office work, she told the Petitioner that she would make the phone call lateron. According to the Respondent No.2, the Petitioner got annoyed and assaulted her. It is alleged that at the time of incident the Respondent No.2 was two months pregnant, which got aborted due to assault and she was thereby put to risk of death.

4. The learned Counsel for the Petitioners and the learned Counsel for the Respondent No.2 jointly submit that the parties have amicably settled the dispute and thus no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. It is submitted that considering the facts and circumstances, the FIR may be quashed. 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 *Narinder Singh and ors vs. State of Punjab and anr*<sup>1</sup>.

5. The Respondent No.2 has filed the affidavit dated 27 April 2022. Respondent No.2 has stated that they have amicably settled the dispute and are cohabiting together. The Respondent No.2 has stated that she has no objection if the FIR in question is quashed in view of the settlement.

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1 (2014) 6 SCC 466

6. The Hon'ble Supreme Court in *Narinder Singh (supra)* has held :

*“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:*

*29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.*

*29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:*

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

*While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.*

*29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have*

*been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.*

*29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.*

*29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”*

7. We have examined the facts of the present case in the light of principles laid down by the Hon'ble Supreme Court in *Narinder Singh's* case. The Petitioner and Respondent No.2 are husband and wife. They have amicably settled the dispute and are now cohabiting together. In view of the settlement, the Respondent No.2 is not going to support the prosecution case and therefore, the possibility of conviction is remote and bleak. Considering these facts and circumstances, in our view, the petition deserves to be allowed. The Petition is thus allowed in terms of prayer clause (a), which reads thus:

*“a) that this Hon’ble Court be pleased to pass appropriate writ, order and direction directing the quashing of FIR No. 39 of 2021 registered under the provisions of Section 308, 323 and 504 of IPC registered at the Hinjawadi Police Station by the Respondent No.2 on such terms as this Hon’ble Court may deem fit and proper.”*

8. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)