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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2215 OF 2022

Sunil Santosh Kumar Khandelwal ... Petitioner

V/s.

The State of Maharashtra and anr. ... Respondents

Mr. V.R. Sutaria i/b Mr. Rahul Sanklecha for the Petitioner.

Mr. J.P. Yagnik, APP for the Respondent – State.

Mr. Shrikant D. Patil i/b Mr. Radhikesh U. for Respondent No.2.

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

DATE : 27 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.109 of 2009 (hereinafter referred to as “FIR”, for short) dated 7 July 2009 registered at Vimantal Police Station, Pune against the Petitioner for the offence punishable under Section 498(A) of Indian Penal Code and criminal case bearing C.C. No.3981 of 2009 pending on the file of Judicial Magistrate First Class, Pune 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 by the Petitioner -husband.

3. The learned Counsel for the Petitioners and the learned Counsel for 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 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 the consent affidavit dated 27 July 2022. Respondent No.2 has stated that she has no objection if the FIR and the 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 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

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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 dispute. 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 (b), which reads thus.

“b) That this Hon’ble Court be pleased to issue appropriate writ, order and direction for quashing of the proceedings in CC No.3981 of 2009 pending before the Ld. JMFC Court at Pune, arising out of FIR bearing C.R. No. 109 of 2009 registered with Vimantal Police Station, Pune at the behest of the Respondent No.2 on such terms and conditions as this Hon’ble Court may deem fit and proper; ”

7. The Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)