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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 688 OF 2022

John De Britto Theavar

... Applicant

V/s.

The State of Maharashtra and anr.

... Respondents

Mr. Shrawan K. Giri for the Applicant.

Mr. Y.M. Nakhwa, APP for the Respondent No.1 – State.

Mr. Chandrabhushan Shukla for the Respondent No.2.

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

DATE : 3 AUGUST 2022.

P.C.

. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.662 of 2022 (hereinafter referred to as “FIR”, for short) dated 8 April 2022 registered at Sakinaka Police Station, Mumbai against the Applicant for the offences punishable under Sections 498-A, 377 and 323 of Indian Penal Code.

2. The aforesaid crime came to be registered at the instance of Respondent No.2, who has *inter alia* alleged that she was subjected to mental and physical cruelty at the hands of the Applicant-husband.

3. The learned Counsel for the Applicant and the 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 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 3 August 2022. Respondent No.2 has stated that she 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 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

1 (2012) 10 SCC 303

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 in 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. Considering these facts and circumstances, the application deserves to be allowed. Hence, Criminal Application is allowed. Consequently, the FIR (C.R.) No.662 of 2022 dated 8 April 2022 registered at Sakinaka Police Station, Mumbai against the Applicant for the offences punishable under Sections 498-A, 377 and 323 of the IPC is set aside and quashed.

7. Criminal Application is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)