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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4602 OF 2021**

Faruk Hussain Mohboobbhai Momin and ors. ... Petitioners

V/s.

The State of Maharashtra and ors. ... Respondents

Mr. Parmeshwar A. Bhise for the Petitioner.

Mr. K.V. Saste, APP for Respondent Nos.1 and 3/State

Mr. Ashish P. Dalvi i/b Mr. Samrat Ingle for Respondent No.2.

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

DATE : 10 AUGUST 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.286 of 2016 (hereinafter referred to as "FIR", for short) dated 3 September 2016 registered at Meghwadi Police Station, Mumbai against the Petitioners for the offences punishable under Sections 498-A, 406, 323 and 504 read with 34 of Indian Penal Code and the criminal Case No.2813/PW/2018 pending on the file of Metropolitan Magistrate, Andheri (E), Mumbai arising out of the said crime.

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 her husband and in-laws. The Petitioner No.1 is the husband of Respondent No.2 and Petitioner Nos.2, 3 and 4 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 and now they are cohabiting together. 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 the 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 17 December 2021. Respondent No.2 has stated that pursuant to amicable settlement, she went back to her matrimonial home and they are cohabiting together. 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 :

¹ (2012) 10 SCC 303

“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 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. There is no dispute that the parties are now cohabiting together. The main reason for filing of the FIR appears to be matrimonial discord. 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 petition deserves to be allowed. Hence, Writ Petition is allowed. Consequently, FIR No.286 of 2016 dated 3 September 2016 registered at Meghwadi Police Station, Mumbai against the

Petitioners for the offences punishable under Sections 498-A, 406, 323 and 504 read with 34 of IPC and the Case No.2813/PW/2018 pending on the file of Metropolitan Magistrate, Andheri (E), Mumbai are quashed and set aside.

7. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)