

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4147 OF 2021**

Mr. Owes Abdullateef Khan and ors. ... Petitioners
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Prasad D. Borkar for the Petitioners.
Mrs. M.H. Mhatre, APP for the Respondent No.1 – State.
Ms Abiha Ansari a/w. Ms Aisha Shaikh for Respondent No.2.

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

DATE : 24 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.368 of 2021 (hereinafter referred to as “FIR”, for short) dated 22 May 2021 registered at Ambernath Police Station, Thane against the Petitioners for the offences punishable under Sections 498(A), 323, 406, 504 and 506 read with 34 of Indian Penal Code (IPC).

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 at the hands of her husband and in-laws. The

Petitioner No.1 is the husband of Respondent No.2 and Petitioner Nos.2 and 3 are her in-laws.

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 the petition for divorce was filed. After settlement between the parties, it was converted into petition for divorce by mutual consent and the Family Court has even passed the decree of divorce on 8 June 2022. 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. The Respondent No.2 has filed the consent affidavit dated 24 August 2022. Respondent No.2 has stated that as per consent terms she has received the entire amount of permanent alimony. 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. 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. 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, Writ Petition is allowed in terms of prayer clause (a), which reads thus.

“a) That Crime No-368 of 2021 registered by Respondent No.1 viz. Ambernath Police Station against the Petitioners for offences under 323, 406, 498A, 504, 506, 34 of the Indian Penal code be quashed against the Petitioners;.”

7. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)