

Versus

The State of Maharashtra and another ... Respondents

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Mr. Utkarsh Singh instructed by Mr. Rajendra Mishra for Respondent No.2.

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

DATED : 22 AUGUST 2022

P.C. :-

At the request of the learned Counsel for the Applicants, leave to amend the prayer clause of the Criminal Application is granted. Amendment to be carried out forthwith.

2. The present Application under Section 482 of the Code of Criminal Procedure, 1973 is filed to quash the First Information Report No. 441 of 2019 (hereinafter referred to as “FIR”, for short) dated 27 December 2019 registered at Murbad Police Station against the Applicants for the offence punishable under Sections 498A, 324, 504 and 506 r/w. 34 of the Indian Penal Code, 1860 and R.C.C.

No.508 of 2020 pending on the file of Judicial Magistrate First Class, Kalyan, Thane arising out of the said FIR.

3. 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 the Applicants. The Applicant No.1 is the husband of Respondent No.2. Applicant Nos.2, 3 and 4 are the father-in-law, mother-in-law and brother-in-law respectively of the Respondent No.2.

4. The learned Counsel for the Applicants 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 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 Punjab¹.

5. The Respondent No.2 has filed consent affidavit dated 18 August 2022. The 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.

1 (2012) 10 SCC 303

6. 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 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.”

7. 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. It appears that parties have amicably settled the dispute and the Applicant No.1 and the Respondent No.2 have filed the petition for divorce by mutual consent. 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. Apart from it, if the FIR is not quashed, the settlement arrived at between the parties would be disrupted. Considering these facts and circumstances, the Criminal Application deserves to be allowed. Hence, the Criminal Application is allowed in terms of prayer clause (a), which reads thus:

“a) This Hon’ble Court may pleased to call for the records and proceedings in respect of the Criminal Case being No.RCC 508/2020 in FIR No.441 of 2019, which is pending before the Ld. JMFC III Court, Kalyan, Thane and after scrutinizing quash and set aside the same.”

8. The Criminal Application is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

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