

Digitally
signed by
DINESH
SADANAND
SHERLA
Date:
2022.07.29
16:31:48
+0500

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5894 OF 2021**

Shekhar Balu @ Balasaheb Kale and ors. ... Petitioners
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Avinash Ovhal a/w. Mr. Anil Parjol for the Petitioner.
Mr. K.V. Saste, APP for the Respondent No.1 – State.
Mr. Sandeep A. Kocharekar for the Respondent No.2.

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

DATE : 25 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.144 of 2019 (hereinafter referred to as “FIR”, for short) dated 2 March 2019 registered at Ghatkopar Police Station, Mumbai against the Petitioners for the offences punishable under Sections 498(A), 406, 354, 323, 504, 506 read with 34 of Indian Penal Code.

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. The Petitioner Nos.2 to 5 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 same is decreed on 24 August 2021. 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 16 February 2022. Respondent No.2 has stated that as per consent terms she has received the amount of Rs.650000/-. 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

¹ (2012) 10 SCC 303

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, which the parties have resolved now. 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, Writ Petition is allowed in terms of prayer clause (a), which reads thus.

“a) this Hon’ble Court be pleased to quash and set aside the FIR bearing No.144/2019 came to be registered with Ghatkopar Police Station for the offence punishable under Sections 498-A, 406, 354, 323, 504, 506 r/w. 34 of Indian Penal Code by the Respondent No.2 against the Petitioners and be further pleased to acquit the Petitioners from the said offences.”

7. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)