

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3677 OF 2023**

Vinay S. Rathi ...Petitioner
Versus
1. The State of Maharashtra
2. Mayuri V. Rathi ...Respondents

Mr. Gaurav Nankar i/b Himalee Divekar for the Petitioner.
Ms M.M. Deshmukh, APP for the Respondent/State.
Mr. Dnyanesh Patil for Respondent No.2.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.
DATE : 7 NOVEMBER, 2023.**

PC:-

1. 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. 41 of 2021 dated 23 March 2021 registered at Shahapur Police Station, Kolhapur for the offences punishable under Sections 498-A, 307, 323, 504 and 506 of the Indian Penal Code and the sessions case arising out of the said FIR being Sessions Case No. 52 of 2021 pending on the file of Additional District and Sessions Judge, Ichalkaranji .
2. The aforesaid crime came to be registered against the petitioner at the instance of respondent No.2/complainant. The petitioner and respondent No. 2 are husband and wife.
3. The quashing of FIR is sought on the ground that there has been an amicable settlement between the parties and

respondent No.2 is no longer desirous of prosecuting the case in question.

4. The learned counsel for the petitioners and respondent No.2 jointly submit that the genesis of the alleged crime is matrimonial dispute between the parties. It is submitted that the parties have now amicably settled their matrimonial 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. It is submitted 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 & Anr.***¹.

5. The respondent No.2, who is identified by her Advocate Mr. Dnyanesh Patil, is personally present in the Court. She confirms about the settlement arrived at with the petitioner, and the contents of the consent affidavit dated 7 November 2023 filed by her, wherein she has stated she has received Rs.3,60,000/- from the petitioner towards permanent alimony. Respondent No. 2 states that she has no objection, if the criminal case in question against the petitioners is quashed.

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

1 (2012) 10 SCC 303

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. The alleged incident appears to be outcome of the matrimonial dispute between the parties. Even otherwise in view of the settlement between the parties, the respondent No.2 is not going to support the prosecution case. Thus, nothing fruitful will come out of the prosecution in question. Considering overall facts and circumstances, in our view, the petition deserves to be allowed. Hence, the Petition is allowed in terms of prayer clause (a), subject to payment of cost of Rs.25,000/- by the petitioner to the Trust viz. **“Association of Parents of Mentally Retarded Children, Account No. 00000010884930648, Bank Name : State Bank of India, IFSC Code: SBIN0009056”** within ten weeks from today and the receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the criminal proceedings shall stand recalled.

8. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)