

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 294 OF 2023**

- | | | |
|----|--------------------------|----------------|
| 1. | Aquib A. Kazi | |
| 2. | Nafisa A. Kazi | |
| 3. | Altaf A. Kazi | ...Applicants |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Mrs. Naziya A Kazi | ...Respondents |

Mr. Navid Mughal a/w. Mr. Sarfaraz Shaikh i/b Mohd. Saeed Moghul for the Applicants.

Ms M.M.Deshmukh, APP for the Respondent/State.

Ms Deepa Panicker for Respondent No.2.

PSI B.V. Gaonkar, Amboli Police Station present.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.**

DATE : 9 NOVEMBER, 2023.

PC:-

1. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.1091 of 2022 dated 19 November 2022 registered at Amboli Police Station, Mumbai for the offences punishable under Sections 498-A, 504, 506, 406 read with of the Indian Penal Code and the criminal case arising out of said FIR being C. C. No.881/PW/2023 pending on the file of Metropolitan Magistrate, 44th Court, Andheri, Mumbai.

2. The aforesaid crime came to be registered against the applicants at the instance of respondent No.2/complainant. The allegations against the applicants, who are husband and in-

laws of respondent No.2, are of cruelty and criminal breach of trust.

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 applicants and the learned counsel for respondent No.2 jointly submit that the parties have amicably settled their dispute. It is submitted that in view of the settlement arrived at between the parties no purpose would be served by keeping the prosecution alive. 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 Ms Deepa Panicker, is personally present in the Court. She confirms about the settlement arrived at with the applicants, and the contents of the affidavit dated 7 November 2023 filed by her, wherein she has stated that she has no objection if the criminal case in question against the applicants is quashed.

6. The Hon'ble Supreme Court in *Gian Singh (supra)* has held :

“But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different

1 (2012) 10 SCC 303

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. The consent terms executed by the parties are taken on record. The main reason for filing of FIR by respondent No.2 appears to be matrimonial discord. The allegations are totally personal in nature. 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. The dictum in *Gian Singh's* case is squarely applicable to the facts and circumstances of the present case and thus application deserves to be allowed. Hence, the Application is allowed in terms of prayer clause (a),

8. The Application is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)