

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 6478 OF 2021**

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| 1. | Aamina Begum Abdul Samad Shaikh | |
| 2. | Shaheen Abdul Rashid Shaikh | |
| 3. | Misbah Abdul Rashid Shaikh | |
| 4. | Saba Siraj Khan | |
| 5. | Asma Hamdan Ajhari | |
| 6. | Abdul Rashid Shaikh | ...Petitioners |
| Versus | | |
| 1. | The State of Maharashtra | |
| 2. | Mrs. Amber Shoeb Shaikh | ...Respondents |

WITH
WRIT PETITION NO. 4977 OF 2021

- | | | |
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| | Shoeb Mohd. Abdul Rashid Shaikh | ...Petitioner |
| Versus | | |
| 1. | The State of Maharashtra | |
| 2. | Mrs. Amber Shoeb Shaikh | ...Respondents |

WITH
WRIT PETITION (ST) NO. 19845 OF 2023

- | | | |
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| | Shoeb Mohd. Abdul Rashid Shaikh | ...Petitioner |
| Versus | | |
| 1. | The State of Maharashtra | |
| 2. | Mrs. Amber Shoeb Shaikh | ...Respondents |

AND
INTERIM APPLICATION NOS. 681 AND 682 OF 2022

Mr. Kartik S. Garg for the Petitioners in all Petitions.
Ms S.S. Kaushik, APP for the Respondent / State.
Mr. Firoz Usman i/b Mr. Milan Desai for Respondent No.2 in all petitions.

CORAM	:	NITIN W. SAMBRE & N. R. BORKAR, JJ.
DATE	:	26 OCTOBER, 2023.

PC:-

. Leave to amend prayer clause. Amendment to be carried out forthwith.

2. Writ Petition No.6478 of 2021 and Writ Petition No.4977 of 2021 under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 are filed to quash one and the same First Information Report No.732 of 2020 dated 4 November 2020 registered at M.H.B. Police Station, Mumbai for the offences punishable under Sections 498(A), 406, 506, 504, 323 read with 34 of Indian Penal Code and criminal case arising out of said FIR being Case No. PW/3536/2021 pending on the file of Metropolitan Magistrate, 68th Court, Borivali, Mumbai.

3. Writ Petition (St) No. 19845 of 2023 under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash First Information Report No.676 of 2019 dated 19 August 2019 registered at Malwani Police Station, Mumbai for the offences punishable under Sections 201, 354(D), 503, 509 of the Indian Penal Code and Section 66 (C) read with 43 of the Information Technology Act and criminal case arising out of said FIR being C.C. No. PW/ 52/2022 pending on the file of Addl. Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai.

4. The allegations in both the first information reports against the petitioners, who are husband and in-laws of the respondent no.2-complainant are of cruelty, criminal breach of trust and stalking.

5. The quashing of the FIRs is sought on the ground that there has been an amicable settlement between parties and thus the respondent No.2/complainant is no longer desirous of prosecuting the cases in question.

4. The learned counsel for the petitioners and respondent No.2 jointly submit that the parties have amicably settled their matrimonial dispute with the intervention of the Mediator. 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. Firoz Usman, is personally present in the Court. She confirms about the settlement arrived at with the petitioners, and the contents of the consent affidavit dated 17 October 2023 filed by her, wherein she has stated that she has no objection if the criminal case in question against the petitioners is quashed.

1 (2012) 10 SCC 303

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 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 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 petitions deserve to be allowed. Hence, the Writ Petition No.6478 of 2021 and Writ Petition No.4977 of 2021 are allowed in terms of prayer clauses (a) and (aa) of the respective petitions and Writ Petition (st) No.19845 of 2023 is allowed in terms of prayer clause (a).

8. Writ Petitions are disposed of.
9. Pending Application(s), if any, are disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)