

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3333 OF 2023**

Abhishek Chanda ...Petitioner
Versus
1. State of Maharashtra
2. Sudesna Banerjee ...Respondents

AND

WRIT PETITION NO. 3726 OF 2022

1. Apurba Kumar Chanda
2. Mitali Chanda
3. Anuradha Chanda ...Petitioners
Versus
1. The State of Maharashtra
2. Sudesna Banerjee ...Respondents

Mr. Siddhesh Bhole a/w. Mr. Yakshay Chheda i/b SSB Legal & Advisory for the Petitioners.
Ms Sharmila S. Kaushik, APP for the Respondent/State.
Mr. Irfan A. Shaikh for Respondent No.2.

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

DATE : 30 OCTOBER, 2023.

PC:-

1. Both these petitions 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.1211 of 2021 dated 14 December 2021 registered at Andheri Police Station, Mumbai against the petitioners for the offences punishable under Sections 498(A) and 406 read with 34 of Indian Penal Code and the criminal case arising out of the

said FIR being Case No.PW/69/2023 pending on the file of Additional Chief Metropolitan Magistrate, 22nd Court, Andheri.

2. The aforesaid crime came to be registered against the petitioners at the instance of respondent No.2/complainant. The petitioner in Writ Petition No.3333 of 2023 is the husband of the respondent No.2/complainant and the petitioners in Writ Petition No. 3726 of 2022 are her in-laws. The allegations against the petitioners 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 petitioners and respondent No.2 jointly submit that the parties have 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.Irfan Shaikh, is personally present in the Court. She confirms

1 (2012) 10 SCC 303

about the settlement arrived at with the petitioners, and the contents of the consent affidavit dated 30 October 2023 filed by her in Writ Petition No. 3333 of 2023, wherein she has stated that she has no objection if the criminal case in question against the petitioners 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 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. The Petitions are accordingly allowed and the criminal case no. PW/69/2023 arising out of FIR No.1211 of 2021 is quashed.

9. Writ Petitions are disposed of in aforesaid terms.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)