

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.5237 OF 2019**

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|----|---------------------------|-----|-------------|
| 1. | Amit K. Chanchalani | | |
| 2. | Khemchand C. Chanchalani | | |
| 3. | Mrs. Dhuru K. Chanchalani | ... | Petitioners |
| | Versus | | |
| 1. | The State of Maharashtra | | |
| 2. | Mrs. Riya A. Chanchalani | ... | Respondents |

Mr. Tejas Dhotre @ Mr. Aditya Pawar i/b Mr Samyak Gimekar for the Petitioners.

Ms S.S. Kaushik, APP for the Respondent/State.

Mr. Rajan S. Pawar for Respondent No.2.

CORAM	:	NITIN W. SAMBRE & N. R. BORKAR, JJ.
DATE	:	6 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. 433 of 2016 dated 21 October 2016 registered at Amboli Police Station, Mumbai for the offences punishable under Sections 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code and the criminal case arising out of the said FIR being C.C. No. 2418/PW/2019 pending on the file of Additional Chief Metropolitan Magistrate, 66th Court Andheri, Mumbai.

2. The aforesaid crime came to be registered against the petitioners at the instance of respondent No.2/complainant. The allegations against the petitioners, who are husband and in-laws, *inter alia* 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 in a petition filed by the petitioner No.1/husband and respondent No.2/wife for divorce by mutual consent, the Family Court has accepted the consent terms and has passed the decree of divorce. 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. Rajan S. Pawar, is present before this Court through V.C.. She confirms about the settlement arrived at with the petitioners. Respondent No.2 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 the case of *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 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. Considering overall facts and circumstances, in our view, the petition deserves to be allowed. Hence, the Petition is allowed in terms of prayer clause (b).

8. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)