

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 894 OF 2023**

1. Devram B. Nikam
 2. Kamal D. Nikam
 3. Murnali D. Nikam
 4. Amit D. Nikam
- ...Petitioners

Versus

1. The State of Maharashtra
 2. Pooja A. Nikam
- ...Respondents

Mr. Kushal Mor i/b Mr. Pramod Londhe for the Petitioners.
Mr. S.V. Gavand, APP for the Respondent/State.
Mr. Prasad Avhad i/b Mr. Kuldeep Nikam for Respondent No.2.

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

DATE : 10 OCTOBER, 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.225 of 2022 dated 26 August 2022 registered at Khandeshwar Police Station, Navi Mumbai for the offences punishable under Sections 498-A, 323, 504 and 506 of the Indian Penal Code.

2. The aforesaid crime came to be registered against the petitioners at the instance of respondent No.2/complainant. The allegations against the petitioner No.4, who is the husband

of respondent No.2 and petitioner Nos.1 to 3, who are her father-in-law, mother-in-law and sister-in-law respectively are of cruelty.

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 with the intervention of the Mediator appointed by this Court the parties have amicably settled their matrimonial dispute. It is submitted that petitioner No.4 and respondent No.2 have decided to convert the petition for divorce pending on the file of the District and Additional Sessions Judge at Panvel to the petition for divorce by mutual consent. It is submitted that respondent No.2 has agreed to accept the lumpsum amount of Rs.6,50,000/- towards permanent alimony. It is submitted that thus 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. Avhad, 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 10 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.

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 petition deserves to be allowed.

Hence, the Petition is allowed in terms of prayer clause (a).

8. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)