

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1371 OF 2022**

- | | | |
|----|------------------------|----------------|
| 1. | Mr. Shadul M. Shaikh | |
| 2. | Mrs. Rehana S. Shaikh | |
| 3. | Mrs. Parvin R. Shaikh | |
| 4. | Mr. Riyaz Y. Shaikh | ...Applicants |
| | Versus | |
| 1. | State of Maharashtra | |
| 2. | Smt. Shamina S. Shaikh | ...Respondents |

AND

CRIMINAL APPLICATION NO. 1187 OF 2023

- | | | |
|----|------------------------|----------------|
| | Mr. Siraj S. Shaikh | ...Applicant |
| | Versus | |
| 1. | State of Maharashtra | |
| 2. | Smt. Shamina S. Shaikh | ...Respondents |

Mr. Viral Rathod a/w. Mr. Vishwatej Jadhav i/b Saima Sothe for the Applicants.

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

Ms Megha Bajoria for the Respondent No.2.

PSI Vaibhav Khade, D.N. Nagar Police Station present.

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

DATE : 1 NOVEMBER, 2023.

PC:-

1. Both these applications under Section 482 of Code of Criminal Procedure, 1973 are filed to quash one and the same First Information Report No.950 of 2022 dated 15 October 2022 registered at D.N. Nagar Police Station, Mumbai against the applicants for the offences punishable under Sections 498(A), 323, 504 and 506 read with 34 of Indian Penal Code.

2. The aforesaid crime came to be registered against the applicants at the instance of respondent No.2/complainant. The applicant in Criminal Application No.1187 of 2023 is the husband of the respondent No.2/complainant whereas the applicant Nos.1 to 4 in Criminal Application No. 1371 of 2022 are her in-laws.

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 respondent No.2 jointly submit that the parties have amicably settled their matrimonial dispute. It is submitted that the applicant/husband and respondent No.2 wife have decided to go for divorce by mutual consent. 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 Ms. Megha Bajoria, is personally present in the Court. She confirms about the settlement arrived at with the applicants, and the contents of the consent affidavit dated 29 September

1 (2012) 10 SCC 303

2023 filed by her in Criminal Application No. 1187 of 2023, wherein she has stated that she has no objection if the criminal case in question against all 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 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 the applications deserve to be allowed. Hence, the Applications are allowed in terms of prayer

clause (A) of respective applications.

8. Both Criminal Applications are disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)