

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Application (APL) No. 528 of 2019.

(Sachin Pralhad Mejewar, Tah.Arni, District Yavatmal & Anr. Vs. State of Maharashtra, thr.
PSO, PS Arni, District Yavatmal).

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R.J.Shinde, Advocate for applicants.
Mrs. M.H.Deshmukh, APP for non-applicant/State.

CORAM : P.N.DESHMUKH &
MRS. PUSHPA V. GANEDIWALA, JJ.

DATE : 11.06.2019.

In this joint application by accused and complainant filed for quashing of F.I.R. No.11/2019, registered at Police Station, Arni, District Yavatmal, for the offence punishable under Section 376(2)(n) of the Indian Penal Code and Sections 3(1)(ii) and 3(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, it is revealed that the applicant no.2 lodged an F.I.R. alleging that the applicant no.1 enticed the applicant no.2, made false promise to marry and committed sexual intercourse with her.

2. Now, the applicant no.2 states that she had lodged a false complaint against the applicant no.1. The applicant no.1 has not committed any such offence as alleged and has thus filed present application before this Court for quashing of F.I.R.

3. We have heard Shri R.J.Shinde, Advocate for applicants and Mrs. M.H.Deshmukh, APP for State.

4. At the outset, perusal of F.I.R. shows that the applicant no.2 was major and was having love affair with the applicant no.1.

They had consensual sexual intercourse on several times, in spite of that report is lodged upon which offence is registered. Now the applicant no.2 states that she lodged a false complaint out of misunderstanding and has not objected if FIR is quashed.

6. In the circumstances, we find it useful to refer to the case of Narinder Singh and Others Vs. State of Punjab and another reported in (2014) 6 SCC 466, wherein the Hon'ble Apex Court has given guidelines to be considered while quashing F.I.R./Charge-sheet. Guideline Nos. 29.2 and 29.6, which in view of facts in the application are relevant, are reproduced hereinbelow :

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure :

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has

collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

7. In view of settled legal position, though we are inclined to quash the F.I.R. in view of the facts and circumstances of the case, thus, it shall be subject to payment of costs to be borne by both the sides as there is gross misuse of public money by complainant by filing false report and putting investigation machinery in motion as per order below :

ORDER

Criminal Application is allowed. First Information Report No.11/2019 dated 05/01/2019 registered by Police Station, Arni, District Yavatmal is quashed and set aside subject to applicant nos.1

and 2 depositing amount of Rs.25,000/- each with the Registry of this Court. On deposit of said amount, Registrar of this Court shall transfer the same to Police Welfare Fund, Yavatmal.

Sumit

JUDGE**JUDGE**