

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

CRIMINAL APPLICATION (APL) NO.253/2020

Dalaram Kodaram Chimpa and ors

..VS..

State of Mah., thr. PSO PS Gittikhadan, Nagpur City, District Nagpur

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

Court's or Judge's Order

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Shri A.M.Jaltare, Counsel for Applicants.
Shri V.A.Thakare, Addl.P.P. for the State.

**CORAM : V.M.DESHPANDE &
AMIT B.BORKAR, JJ.**

DATED : AUGUST 17, 2021.

1. Heard learned counsel Shri A.M.Jaltare for applicants and learned Additional Public Prosecutor Shri V.A.Thakare for the State.

2. This is a joint application moved by accused persons who are applicant Nos.1 to 6; victim's mother, the complainant, who is applicant No.7, and victim who is applicant No.8 for quashing of chargesheet No.125/2019 which is registered as Special (POCSO) Child Case No.253/2019.

3. According to learned counsel Shri A.M.Jaltare for applicants, the victim and accused persons have compromised their matter and, therefore, the complainant wants to withdraw the complaint.

4. The Courts are guardians of law. Merely

because parties are coming and stating that they are compromising the matter, duty of the Court does not end there. It is duty of the Court to examine prosecution case and if allegations against accused persons are serious and society's interest is involved in matter, the Court may not accept so called compromise between parties.

5. Initially, First Information Report was lodged by one Malu Baiju Siram. She is mother of the victim.

6. Applicant No.7 filed complaint with Gittikhadan Police Station, Nagpur. On the basis of the said complaint, crime was registered as Crime No.377/2018 for offence punishable under Section 363 of the Indian Penal Code. At the relevant time, applicant No.8, the daughter of applicant No.7, was minor and was child within meaning of definition of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act). Applicant Nos.1 to 6 were arrested.

7. Applicant No.6-Roshanibai, filed application for grant of bail i.e. Criminal Application (BA) No.829/2019. After a detailed hearing, Single Judge (V.M.Deshpande, J.) on 11.9.2019 rejected the bail application.

8. Similarly, applicant No.1-Dalaram Kodaram Chimpa also filed application for grant of bail. His application was listed as Criminal Application (BA) No.1018/2019. When Single Judge (V.M.Deshpande, J.) was about to reject the said application for grant of bail, learned counsel in that application submitted that he has

instructions from the applicant to withdraw the application. The said application for grant of bail was rejected as withdrawn. Since applicant-Dalaram Kodaram Chimpa was withdrawing the application, the Court did not give detailed reasons as to why the application needs rejection.

It is to be noted here from submissions made by learned counsel Shri A.M.Jaltare for applicants that these applicants have not filed any proceeding before the Honourable Apex Court either challenging orders rejecting applications for grant of bails or for grant of bails.

9. Be that as it may, chargesheet was filed against applicant Nos.1 to 6 for offences punishable under Sections 363, 370, 376(N), 468, 471, and 506-B of the Indian Penal Code read with Sections 4 and 5(L)(q) of the POCSO Act.

10. At the Bar, it is submitted by learned counsel Shri A.M.Jaltare for applicants that since parties have settled their dispute, applicants Nos.1 to 6 filed LD-VC Criminal Application (BA) No.69/2020 for grant of bail before learned Single Judge. On 12.5.2020, learned Single Judge (Smt.Pushpa V.Ganediwala, J.) granted *interim* bail in favour of applicant Nos.1 to 6 and, therefore, they are out of jail.

11. Present application under Section 482 of the Code of Criminal Procedure is for quashing of chargesheet. Allegations made against applicant Nos.1 to 6 are very serious in nature. It appears from the chargesheet that they pressurized victim for her marriage with applicant No.1

when she was a minor girl.

12. It is to be noted that applicant Nos.1 to 6 are all residents of Rajasthan and Madhya Pradesh and the victim girl and her father are residents of Nagpur (Maharashtra) having no connection whatsoever geographical with Madhya Pradesh and they do not have any relative either at Rajasthan or at Madhya Pradesh. Therefore, in our view, learned Additional Public Prosecutor Shri V.A.Thakare for the State has rightly submitted that the marriage is nothing but facade and we are approving his submission. Therefore, investigator has rightly applied provisions of Section 370 of the Indian Penal Code in respect of human trafficking. The human trafficking is a very serious offence having its impact on society at large and, therefore, we are reminded of word of caution given by the Honourable Apex Court in the case of State of Madhya Pradesh vs. Laxmi Narayan and ors, reported at (2019)5 SCC 688.

13. In view of the aforesaid discussions, merely parties are coming to the Court and making statements that they have compromised the matter and, therefore, the prosecution be dropped, we are not ready to accept the said. The accused persons, who have committed a heinous offence, must face trial and justice will be done to them in accordance with law.

14. The criminal application is rejected and disposed of accordingly.

15. Since according to learned counsel Shri

A.M.Jaltare for applicants LD-VC Criminal Application (BA) No.69/2020 is coming before learned Single Judge tomorrow, place this order before learned Single Judge.

16. It is to be noted here that in reply the State has stated that during investigation bank statements were collected which show bank entries between one of accused Roshanibai and another accused Shikharchand. It clearly shows that at least *prima facie* the girl was sold by these accused persons after initially kidnapping her.

JUDGE

JUDGE

!! BRW !!

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