

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

**CRIMINAL APPLICATION (APL) NO.499/2020**

1. Amol s/o Ramesh Khobre,  
Aged about 29 years, Occ.Service.
2. Ramesh s/o Sambhaji Khobre,  
Aged about 69 years, Occ. Agriculture
3. Kastura w/o Ramesh Khobre,  
Aged about 50 years, Occ.-Agriculture.
4. Viresh s/o Ramesh Khobre,  
Aged about 50 years, Occ.-Agriculture,  
All R/o Village Nadi-Halterga, Taluka Nilanga,  
District Latur 413516. ... Applicants

**VERSUS**

1. State of Maharashtra  
through Police Station Officer,  
Police Station Beltarodi, Nagpur.
2. Shilpa d/o Dattuji Nitine,  
Aged about 25 years, Occ.-Pvt. Job.  
R/o Moshi Khurd, Tq. Varud, Dist. Amravati,  
Meherbaba Colony, Near Giramkar Lay-out,  
Amravati. ...Non-applicants

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Mr. A.A. Choube, Adv for applicants.  
Ms. S.H. Bhatiya, Adv for resp. no.2.  
Mr. M.J. Khan, APP for State.

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**CORAM: M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.**  
**DATE : 30-11-2021.**

**ORAL JUDGMENT : (Per: M.S. Sonak, J.)**

**Rule.** The rule is made returnable forthwith. Heard finally with the consent of learned Counsel appearing on behalf of both sides.

2. This is an application for quashing the First Information Report (FIR) No.290/2020 dated 30-07-2020 registered at Police Station Beltarodi, Nagpur, alleging commission of offenses punishable under Sections 3(1)(r), 3(1)(s), 3(1)(w), 3(1)(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 362(2)(n), 504 and 506(2) of the Indian Penal Code (IPC) by the applicants herein.

3. In this matter, after notices were issued, non-applicant no.2 appeared before us. We appointed a counsel to obtain proper instructions from her and represent her in this matter. The non-applicant no.2, who is personally present today, and her counsel state that the non-applicant no.2 is not interested in proceeding any further with this matter and will have no objection if the impugned FIR is quashed by this Court.

4. Mr. Khan, learned APP has invited our attention to the decision of the Hon'ble Supreme Court in **State of Madhya Pradesh vs Madanlal**, reported in **(2015) 7 SCC 681** which holds that normally in cases of rape or attempt to rape mere compromise between the parties

should not be a ground for quashing the proceedings.

5. Mr. Choube, learned Counsel for the applicants has submitted that if the complaint/FIR is perused, then, it is quite apparent that the liaison between applicant no.1 who is aged about 29 years, and non-applicant no.2 who is aged about 25 years was consensual. There are no allegations of a false promise of marriage. He submitted that it is true ultimately, the applicant no.1 did not or could not get married, but then, this is not a case of securing consent based on a false promise of marriage. He pointed out that there are no allegations against the remaining applicants. He submitted that based on vague and generalized allegations, the prosecution in the matter of this nature ought not to continue. He relies on the decision of the Hon'ble Supreme Court in **Pramod Suryabhan Pawar vs State of Maharashtra and another**, reported in (2019) 9 SCC 608 to submit that the impugned FIR may be quashed.

6. We have considered the rival contentions of the parties and perused the material on record. On perusal of complaint/FIR, we are inclined to agree with the submissions of Mr. Choube, learned Counsel, on the aspect of a consensual relationship. From the allegations made in the complaint/FIR, it would be difficult to conclude

that any false promise of marriage was made to secure consent for such a relationship which continued for a significant period between the two consenting adults. At the highest, this amounts to a case where applicant no.1 went back upon his promise or failed to honor his promise based on some subsequent developments. Based on the allegations in the complaint/FIR, therefore, it cannot be said that the initial promise itself was false or made only to obtain consent for the relationship.

7. The allegations in the context of the Atrocities Act are possibly made to rope the parents and other relatives of applicant no.1. The allegations are based on telephonic conversations. Based on such materials, we do not think it would be appropriate to let the prosecution continue any further in this matter, particularly now that the complainant does not wish to pursue the same.

8. We have considered the decision in the case of **Madanlal** (supra) as also **Pramod Pawar** (supra). The later decision draws out the distinction between false promise and breach of promise. The later decision refers to the facts necessary to be established to establish that consent was vitiated by a misconception of facts arising out of a false promise to marry for sexual favors. As noted earlier, the complaint/FIR

does not refer to such basic facts. Rather from the perusal of the complaint/FIR, a case of breach of promise, at the highest, has been made but not a case of false promise. Having regard to these peculiar facts coupled with the non-applicant no.2's resolve not to proceed any further in this matter, we think the interest of justice will be met if the impugned FIR is quashed. Such quashing is not merely on account of some compromise that may have been reached between applicant no.1 and non-applicant no.2. Such quashing is because the necessary ingredients to constitute the offenses alleged have not been made out even if we were to take the allegations in the complaint at their face value.

9. The non-applicant no.2 is present in this Court and we have interviewed her. She has also stated that she does not wish to proceed any further with her complaint and now she wants to turn a new leaf. Upon cumulative consideration of all such circumstances, we think that the interests of justice would be served if the impugned FIR is quashed. Accordingly, we quash the impugned FIR and make the rule absolute in this petition.

10. Ms. Bhatiya, learned Counsel appearing for non-applicant no.2 points out that the original Caste Certificate of non-applicant no.2

and her mobile phone are with the Investigating Agencies since the same was attached during the investigation. She submits that the necessary directions may be issued for the return of the same to the non-applicant no.2.

11. Mr. Khan, learned APP points out that the mobile phone has been sent to the forensic experts and now the same will be recalled and returned to non-applicant no.2. He states that even the original Caste Certificate will be returned to non-applicant no.2. Even according to us, it is only proper that this is done within a reasonable period and we therefore direct accordingly.

12. We thank Ms. Bhatiya, learned Counsel appointed under the Legal Aid Scheme to appear on behalf of non-applicant no.2. She has obtained proper instructions from non-applicant no.2 and assisted this Court in the disposal of this matter. We, therefore, thank her and quantify the fees payable to her at Rs. 2000/-.

13. There shall be no order as to costs.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)