

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

**CRIMINAL APPLICATION (APL) NO. 1374 OF 2021**

Rahul S/o. Kamalchand Surana  
(Husband)

Aged about 40 years, Occ. Private Job,  
R/o. D-19-20, Shailendra Nagar,  
Raipur (C.G.)

... **APPLICANT**

----**VERSUS**----

1. The State of Maharashtra,  
Through Police Station Officer,  
Police Station – MIDC,  
Tahsil & District – Nagpur.

2. The Superintendent,  
State Criminal Investigation  
Department (CID),  
Office at CID Regional Head  
Quarter Building at Police Line,  
Takli, Nagpur.

3. Kirtika W/o. Rahul Surana,  
Aged about 36 years, Occ. Pvt. Service,  
R/o. Flat No.101, Plot No.7A,  
“Pioneer Green Valley” Hazaripahad,  
Katol Road, Nagpur -13.

.. **NON-APPLICANTS**

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Mr. S. S. Ahmad, Advocate for Applicant.

Ms. M. A. Barabde, A.P.P for Non-applicant/State.

Ms Payal Lunawat, Advocate for Non-applicant No.3.  
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**CORAM:      M. S. SONAK AND  
                         PUSHPA V. GANEDIWALA, JJ.**

**DATE:          20.12.2021.**

**ORAL JUDGMENT : (PER M. S. SONAK, J.)**

1.            Heard learned counsel for the parties.

2. **Rule.** The rule is made returnable forthwith at the request of and with the consent of the learned Counsel for the parties.

3. Mr. Rahul Surana and Kirtika Surana are also present in this Court.

4. This is an application for quashing of First Information Report/Crime No.191/2014 dated 24.07.2014, Charge-sheet No.23/2015 dated 02.02.2015, Charge-sheet No.23(A)/2018 dated 18.05.2018 and also R. C. C. No. 735/2015 pending in the Court of Judicial Magistrate First Class, Court No.9, Nagpur.

5. The learned counsel for the parties as well as parties themselves state that they have filed terms of compromise before the learned Additional Sessions Judge in Criminal Revision No.15/2019.

6. We have perused the terms of compromise. According to us, the parties have not taken sufficient measures to protect the interest of Arnav, who is reported to be only 10 years old at present. We think that the amount which is stated in the compromise terms, will not be sufficient to take care of Arnav's educational and other needs in the future. This is despite the statement by Kirtika that she intends to use the amounts which

are to be paid to her in terms of the compromise basically for the welfare of Arnav.

7. Today, Mr. Rahul Surana, who is present in the Court has made a statement before us, as given an undertaking, that he will deposit further amount of Rs.10,00,000/- before the learned Additional Sessions Judge, Nagpur in Criminal Revision No.15/2019. According to us, this amount will have to be maintained in an appropriate fixed deposit instrument, if necessary, in the name of Arnav, Rahul and Kirtika so that Arnav can get this amount together with accrued interest after he attain majority.

8. Mr. Rahul Surana states that some time may be granted to make this deposit. He requests for three months time for this purpose. According to us, the request made by Mr. Rahul Surana is quite reasonable.

9. Kirtika, who has appeared before us, has stated that she stands by the terms of the compromise and has no objection if the First Information Report, Charge-sheet and criminal proceedings initiated in pursuance thereof are quashed by this Court.

10. Since, Kirtika has co-operated with the applicant and has stood by the terms of compromise, there is no reason as to why she should not be permitted to withdraw the balance amount

of Rs.40,00,000/- deposited by the applicant from the Additional Sessions Court. The statement of Kirtika that she will utilize this amount mainly for the welfare of Arnav is also recorded and accepted.

11. In such a matter, we expect both the parents to co-operate with each other, at least, on issue of the welfare of their son Arnav.

12. Having regard to the terms of the compromise, the undertaking given by Rahul Surana to this Court and the law laid down by the Hon'ble Supreme Court in the case of ***B. S. Joshi and Ors. Vs. State of Haryana and Anr.*** reported in ***(2003) 4 SCC 675***, we see no difficulty in accepting the joint request made by the applicant Rahul and non-applicant No.3 Kirtika for quashing of the impugned First Information Report, Charge-sheet and criminal proceedings launched in pursuance thereof.

13. However, we make it clear that this order for quashing will take effect only after applicant Rahul deposits an amount of Rs.10,00,000/- in the Court of learned District and Sessions Judge, Nagpur within three months from today. Once this amount is deposited, the parties can decide about the modalities of investment in the fixed deposit. If any directions are needed, the learned Additional Sessions Judge, Nagpur taking up Criminal

Revision No.15/2019 can always issue the same keeping in mind the interest of Arnav.

14. At this stage, we make it clear that if there is a default in depositing Rs.10,00,000/- within three months from today then, this application will be deemed to have been dismissed without any further reference to this Court together with costs of Rs.1,00,000/-. Further, notwithstanding the dismissal of this application, the terms of compromise recorded in the civil proceedings will operate and Kirtika will not be required to refund the amount which she has already withdrawn in terms of the compromise in the civil proceedings.

15. The criminal proceedings will, however, continue on account of deemed dismissal of this application.

16. The learned counsel for the applicant as also applicant Rahul states that they will file necessary undertaking regarding deposit of Rs.10,00,000/- within three months before the learned Additional Sessions Judge, Nagpur in Criminal Revision No.15/2019 today itself. The copy of such undertaking to be provided to non-applicant No.3 or the counsel appearing for non-applicant No.3. The undertaking will have to be consistent with what has been stated and undertaken before us today.

17. The Rule is made absolute in the aforesaid terms.

18. Pending application(s), if any, stand(s) disposed of.
19. All concerned to act on the authenticated copy of this order.

(PUSHPA V. GANEDIWALA, J.)

(M. S. SONAK, J.)

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