

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

CRIMINAL APPLICATION (APL) NO. 460 OF 2023

APPLICANT :
(Accused)

Harshal S/o Kailash Tembhurne,
Aged about 23 years, Occupation-
Student, R/o Ward No.1,
Kohamara, Sadak Arjuni,
District Gondia.

V E R S U S

RESPONDENTS :

1. State of Maharashtra
Through Police Station Officer,
Police Station, Ambazhari,
Nagpur.
2. X Y Z, Victim in Crime No.
284/2022 dated 19/08/2022
Registered through Police Station,
Ambazari, Nagpur.

Shri S. N. Bawangade, Advocate for applicant.

Shri A. M. Kadukar, Additional Public Prosecutor for respondent No.1.

Shri V. D. Awachat, Advocate for respondent No.2.

CORAM: VINAY JOSHI AND

BHARAT P. DESHPANDE, JJ.

DATE : 27/03/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. This is an application seeking to quash FIR in Crime
No.284/2022 for the offence punishable under Section 376 of the

Indian Penal Code along with related Charge Sheet bearing Sessions Trial No.701/2022 pending on the file of District and Sessions Judge-2, Nagpur.

3. The informant lady aged about 25 years has lodged report on 19/08/2022 against the applicant resulting into registration of crime. It is her case that she has love affair with the applicant from August, 2020. They had sexual relations. Precisely, it is prosecution case that applicant gave false promise to marry and therefore, consent vitiates resulting into an offence of rape. The quashing is sought on account of settlement in between the parties.

4. It is submitted that the applicant never gave false promise but in fact, he was intending to marry with the informant. After registration of FIR, both got married on 27/09/2022 and till date, living together. The certificate of marriage is produced on record. The informant is present before us and she is identified by Advocate Shri Awachat appearing on her behalf. The informant lady has admitted that she got married with the applicant, and presently living with him. She also stated that since they are married, she do not wish to prosecute the criminal case.

5. Though the crime was registered for the offence of rape, however, it is undisputed that after registration of crime, both got married and living together. Obviously, contention of criminal prosecution would become hurdle in their matrimonial life. Both are desirous to lead marital life happily. In view of that to secure the ends of justice, we deem it appropriate to quash FIR as continuation of prosecution would be exercise in futility.

6. In view of above, application is allowed. We hereby quash and set aside FIR in Crime No.284/2022 for the offence punishable under Section 376 of the Indian Penal Code along with related Charge Sheet bearing Sessions Trial No.701/2022 pending on the file of District and Sessions Judge-2, Nagpur.

7. The application stands disposed of accordingly.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

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