

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

CRIMINAL APPLICATION (APL)NO.480 OF 2023

Prathamesh Surendra Sohale, aged
about 24 years, Occ. Student, R/o
Ward No.4, Near State Bank, Post
Kurha, Tahsil Tiwasa, Dist. Amravati.

Applicant

-Vs.-

1. State of Maharashtra, through Police
Station Officer, Sadar Police Station,
District Nagpur.
2. Tina Raju Sukhadave, aged about 22
years, Occup. Student, R/o
Mecosabag, Kadbi Chowk,
Dist. Nagpur.

Non-applicants.

Mr.S.P.Bhandarkar, counsel for applicant.
Ms.S.S.Jachak, APP for non-applicant No.1.
Mr.Yash Bhelande, counsel for non-applicant No.2.

**CORAM: A.S. CHANDURKAR AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 22nd JUNE, 2023

ORAL JUDGMENT (Per : Vrushali V. Joshi, J.)

1. Heard Shri S.P. Bhandarkar, learned counsel for the
applicant, Mrs. S.S. Jachak, learned Additional Public Prosecutor
for the non-applicant no.1 and Mr. Yash Bhelande, learned counsel
for the non-applicant no.2. Rule. Rule made returnable forthwith.

Heard finally by consent of the learned counsels appearing for the rival parties.

2. The applicant has filed the application for quashing of the First Information Report bearing No.134 of 2021 registered at Police Station- Sadar District- Nagpur for the offence punishable under Sections 376 and 376(2)(n) of the Indian Penal Code, 1860 and Sections 3(1)(w)(i) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015.

3. The quashing is sought on the premise that the parties, who are both adult, were in a consensual relationship and they have amicably settled their dispute. Initially, the joint application was filed by the first informant i.e. the victim and the accused. Thereafter the name of the first informant is deleted as applicant and she was posed as the non-applicant No.2.

4. On the complaint lodged by the non-applicant no.2, the crime is registered. It is stated by the non-applicant No.2 that she has registered her name on "Jeevansathi.com.matrimonial site". From there, she came to know the applicant. They first met at Eternity Mall, Nagpur in the year 2021. The applicant proposed her. Thereafter, they started meeting and whenever they met, they

used to book the room in hotel, stayed together and had sexual relations. It is alleged that after 10 to 15 visits and physical relations with consent, the applicant avoided her and refused to marry with her and therefore, she has lodged the complaint and the crime came to be registered.

5. It appears that in the interregnum, the applicant and the non-applicant No.2 amicably settled their dispute and decided to file joint application for quashing of the First Information Report. Both of them are the students. They have settled the dispute by filing the joint affidavit and they have decided not to blame each other. They have decided to withdraw the complaints and to live a peaceful life without there being any interference in each others life. The applicant and Non-applicant No.2 have developed cordial relations and do not want to proceed with any case against each other. Being students, they have just started their career and they do not want to spoil their career by prosecuting each other and therefore, they mutually have decided to withdraw all the cases and non-applicant No.2 does not want to prosecute the applicant.

6. In case of quashing of First Information Report is for the offences under Section 376 of the Indian Penal Code and

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act which falls in heinous and serious category, we have to think about it's quashment. The Hon'ble Apex Court in the case of *Kapil Gupta and ors Vs. State of NCT of Delhi and anr reported in 2022 SCC OnLine SC 1030*, in paragraph No.17 has observed as under :-

17. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No.2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings”.

7. It is also observed in the case of **Madan Mohan Abbot Vs.State of Punjab reported in (2008)4 Supreme Court Cases, 582**, the Hon'ble Supreme Court in para 6 has observed as under :

“6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law”.

8. In support of his submissions, that if there is compromise the First Information Report can be quashed in

serious offences also if it is not against State, the learned counsel for the applicant has also relied on the following decisions:-

- (i) Binoy Kodyeri ..Vs.. State of Maharashtra and anr reported in 2022 SCC OnLine Bom 3361.
- (ii) Narinder Singh and ors ..Vs.. State of Punjab and anr reported in (2014) 6 SCC 466.
- (iii) Gian Singh .Vs. State of Punjab and anr Maharashtra and anr reported in (2019) 9 SCC 608 reported in (2012) 10 SCC 303.
- (iv) Pramod Suryabhan Pawar ..Vs.. State of Maharashtra and anr (2019) 9 SCC 608.
- (v) Dr.Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and ors. Reported in (2019)18 SCC 191.

9. On perusal of the affidavit, it appears that the applicant and non-applicant No.2 are both adult. The parties were in consensual relationship for a period of year. Both of them have accepted the said fact in their joint affidavit. Thus, no offence can be said to have been disclosed under Section 376 of the Penal Code or Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Even otherwise, it appears that the parties have amicably resolved their dispute and as such the non- applicant No.2 does not intend to proceed with the case. Non applicant No.2 appeared through her Advocate and she has stated on affidavit that the dispute has been resolved.

10. Considering whatever stated aforesaid, it appears that the relations between the parties were consensual in nature. Since the parties have also amicably settled their dispute, there is no impediment in allowing the application.

11. In view of above, the First Information Report bearing No. 134 of 2021 dated 04/04/2021 registered at Police Station-Sadar District-Nagpur for the offence punishable under Sections 376 and 376(2)(n) of the Indian Penal Code,1860 and Sections 3(1)(w)(i) and 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act,2015 is quashed and set aside. The applicant shall deposit sum of Rs.10,000/- (rupees ten thousand) with the Police Welfare Fund for being responsible for initiation of the present proceedings.

12. Rule is made absolute in the aforesaid terms. No order as to costs.

(MRS.VRUSHALI V. JOSHI, J) (A.S.CHANDURKAR, J.)