



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.2932 OF 2023
IN
CRIMINAL APPLICATION NO.1732 OF 2023**

X Y Z

..Applicant

Vs.

The State of Maharashtra and ors.

..Respondents

Mr.P.V.Mandlik, Advocate for applicant
Ms.V.S.Choudhary, APP for respondent nos.1 and 2
Mr.Y.D.Kale, Advocate for respondent no.3

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : JANUARY 15, 2024**

ORDER :-

This is an application for recalling of the order dated 10.07.2023, whereby this Court allowed Criminal Application No.1732 of 2023 since the informant (applicant herein) gave express consent to allow the same. It was a case for the offence punishable under Section 376 of Indian Penal Code and related offences.

2. It is the case of the applicant (informant) that respondent no.3 herein promised her to marry and brought her before this Court to obtain her consent for quashing of the First Information Report and consequential proceedings. No sooner this court allowed the

application for quashing of the F.I.R. vide order dated 10.07.2023, respondent no.3 disowned the relationship and left the house, wherein both of them were residing together.

3. Learned counsel for respondent no.3 opposed the application. He relies on Section 362 of the Code of Criminal Procedure and the judgments of the Apex Court in the cases of (i) Atul Shukla Vs. State of Madhya Pradesh and anr., 2019 DGLS (SC) 769 and (ii) Bhupinder Singh and ors. Vs. State of Punjab and anr., 2016 DGLS (P&H) 2259, to submit that the Court has no power to recall/review its order.

4. There cannot be any dispute over the legal proposition. The fact is, however, that respondent no.3 had brought the applicant before this court and made her give express consent to get the FIR and the consequential proceedings quashed. It is true that the applicant herein gave similar consent in the application for bail. Thereafter, i.e., no sooner we allowed the application for quashing of the F.I.R., respondent no.3 herein deserted the applicant. Same suggests that his intention was otherwise. He made false promise and brought her (applicant) before this court to give consent. As such, it was not a consent in the eye of law. We are, therefore, inclined to recall the order.

5. Hence, present application is allowed in terms of prayer clause (B). The order dated 10.07.2023, whereby this Court allowed Criminal Application No.1732 of 2023, is recalled.

6. We appreciate the assistance extended by learned counsel for the applicant. He graciously waives the remuneration to which he will be entitled, he being appointed for assistance of this court.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP