



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

CRIMINAL APPLICATION NO.732 OF 2024

1. Nitin s/o Motiram Pawar, Age 34 years,
Occupation : Service (C.I.S.F.(R/o At
Post Kolwad, Buldhana, Dist. Buldhana.
2. Sagar s/o Prabhakar Pawar, Aged about
28, Occupation : Student, R/o At Post
Kolwad, Buldhana, Dist. Buldhana.

... APPLICANTS

VERSUS

1. State of Maharashtra, through
its Police Station Officer, Police
Station, Buldhana City, District
Buldhana.
2. XYZ (Victim), Crime No.0083/2024,
Police Station, Buldhana City, Dist.
Buldhana.

... NON-APPLICANTS.

Shri R.S. Gahilot, Advocate for the applicants.
Shri Narale, Addl.PP for the State.
Shri Manish Shukla, Advocate for non-applicant no.2.

CORAM : VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 30.04.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. The matter is taken up for final disposal by consent of learned Counsel appearing for the parties.

3. This is an application seeking to quash the First Information Report bearing Crime No.83 of 2024 registered with the Buldhana City District Buldhana for the offence punishable under Sections 354 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children From Sexual Offences Act, 2012, on account of settlement.

4. At the instance of the report lodged by the minor victim aged 16 years, crime has been registered. The victim and the accused are neighboring resident. They had acquaintance which turned into love relationship. It is the victim's contention that on 17.01.2024, around 6.00 p.m., the accused asked her to sit in four-wheeler, took her at some distance and by physically contacting her outraged her modesty and therefore, the offence.

5. Learned Counsel appearing for the applicant has submitted that the matter has been amicably settled between the parties. Both sides are neighboring resident and due to intervention of villagers, they have settled the dispute. More particularly, it is submitted that the girl is of marriageable age and considering her marital prospects, it would be in the interest of justice to quash the proceedings.

6. The informant girl is present before the Court with her parents. The reply affidavits have been filed by her father and mother stating about the settlement and their no objection to quash the proceedings. Though the informant/victim is a minor however she is 17 years of age and having understanding capacity. She has also appeared before the Court and requested for quashing the proceedings. The parents of the victim have submitted that they are neighboring resident since long and to maintain good relations, they do not want to prosecute further. Particularly, it is reiterated that the girl has a career and pendency of this case may affect her marital prospects.

7. Learned Addl.PP has submitted that though the matter is settled, the offence is of serious nature and thus, the accused is involved under the special statute namely POCSO Act hence, quashing is not permissible.

8. We have considered the allegations levelled in the FIR. It reveals that they are neighboring resident and having relationship for two years though the victim is a minor. The applicant made advances however the victim also went with him in four-wheeler.

9. Relying on the decision of this Court in case of ***Shiva Chanappa Odala vs. State of Maharashtra and another – Writ Petition***

No.1366/2022 (Bombay) decided on 22.02.2023, it is submitted that there is no hurdle in quashing the proceedings under POCSO Act on account of settlement. Similarly, reliance is placed on the decision of Delhi High Court in case of *Rohan Pandey vs. State through SHO PS Palam Village and another – Crl.M.C.No.5392/2023 decided on 21.09.2023*, to contend that in special circumstances the Court can exercise the powers under Section 482 of the Code of Criminal Procedure even in cases under the provisions of POCSO Act. Since the trial has not commenced still the accused has a presumption of innocence in their favour. Applicants have relied on the decisions of the Supreme Court in case of (1) *State of Madhya Pradesh .vs. Laxmi Narayan and others – [2019] 5 SCC 688* and (2) *Gian Singh vs. State of Punjab and another – [2012] 10 SCC 303*, to contend that seriousness of the crime and its social impact are key considerations in quashing the proceeding on account of settlement. In several decisions it has been ruled by the Supreme Court that it is not possible to lay down any inflexible rule which would govern the exercise of High Court's inherent jurisdiction. The only consideration is to prevent the abuse of the process of the Court and to secure the ends of justice.

10. In case at hand, continuation of trial would be against the interest of both the parties. The alleged offence is not punishable with

death or imprisonment for life.

11. We have brought to the notice of the parties that due to registration of crime, police have investigated the matter, filed charge sheet and the Court has devoted much time in going on with the prosecution. At this juncture, the learned Counsel for applicants makes a statement that the applicants would deposit an amount of Rs.20,000/- towards costs.

12. Considering all above peculiar facts and particularly the victim and her parents do not wish to prosecute the case, we are inclined to exercise our exceptional powers, hence following order is passed.

- (i) Criminal Application is allowed and disposed of.
- (ii) The First Information Report bearing Crime No.83 of 2024 registered with the Buldhana City District Buldhana for the offence punishable under Sections 354 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 is hereby quashed and set aside.

(iii) Applicants to deposit an amount of Rs.20,000/- towards costs in the account of Government Pleaders Library High Court, Nagpur by 08.05.2024.

(iv) List the matter for reporting compliance on 09.05.2024.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)

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