



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.794/2024

Anil s/o Shivaji More,
aged about 31 Yrs., Occ. Private,
R/o Malharvadi Yevla Road,
Nandgaon, Nashik,
Tah. and Distt. Nashik.

... Applicant

- Versus -

1. State of Maharashtra,
through Police Station Officer,
Nandanvan Police Station,
Nagpur, Tah. & Distt. Nagpur.

2. XYZ
Crime No.166/2024
Police Station Nandanvan,
Distt. Nagpur.

... Non-applicants

Mr. A.P. Barahate, Counsel for the Applicant.
Ms. T.H. Udeshi, A.P.P. for Non-applicant No.1.

CORAM: VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 7.5.2024.

ORAL JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. This is an application seeking to quash F.I.R. in Crime No.0166/2024 registered by non-applicant No.1 for the offence punishable under Sections 376 and 376(2)(n) of Indian Penal Code on account of settlement.

3. The informant lady aged 27 years has lodged the report alleging the offence of rape. It is informant's case that in the year 2019 she got acquainted with the applicant. Love relationship was developed between them and the applicant expressed his desire to marry. On and often they maintained physical relations during the period from 2019 to 2023 on various places. Finally the applicant refused to marry, therefore, the report.

4. The matter has been amicably settled in between the parties. The informant lady has filed reply stating about settlement and her no objection to quash the proceedings. Today informant is present before the Court who is identified by

applicant's Counsel. She has stated about settlement and her no objection to quash the proceedings. Particularly the informant stated that she got married with applicant on 17.4.2024 and thus if proceedings is not quashed her matrimonial life would be at stake.

5. The applicant's learned Counsel has also argued the matter on merits by stating that apart from compromise the contents of police report does not constitute an offence of rape. We have examined the police report which indicates that both got acquainted prior to 5 years and fall in love. The informant stated that on various occasions they were intermittently meeting at each others house and maintained physical relationship. Since the applicant has refused to marry she has lodged the report. It reveals that after lodgement of report both of them got married on 17.4.2024. Certificate of registration of marriage has been produced. The informant stated that at present she is residing with the applicant as husband and wife. The above facts indicate

that out of love affair couple has voluntarily maintained physical relationship. The facts enumerated above makes out a case of consensual relationship between two adults. Rather it reveals that the applicant though sometime denied for marriage, however, got married on 17.4.2024 and now they are residing as husband and wife. Certainly the continuation of prosecution would be at the cost of marital life of the couple. In such peculiar facts, the continuation of prosecution would amount to abuse of process of Court.

6. While parting with the judgment the learned Counsel for the applicant has pointed out that while deciding the pre-arrest bail application the learned trial Court has directed the informant lady to deposit costs of Rs.10,000/- to Police Welfare Fund, Nagpur. Rather the informant has filed affidavit giving her no objection to grant bail that is why the trial Court bent upon imposing costs on informant. We are of the considered opinion that the trial Court shall not venture into such exercise while

deciding the bail applications. Registrar (J.) to communicate this order to the learned Judge.

7. The contents of police report even if accepted at its face value, does not make out the offence of rape. Having regard to the above circumstances, the continuation of trial would amount to the abuse of process of Court.

8. In view of the above, the application is allowed.

We hereby quash and set aside quash F.I.R. in Crime No.0166/2024 registered by non-applicant No.1 for the offence punishable under Sections 376 and 376(2)(n) of Indian Penal Code.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)