



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

CRIMINAL APPLICATION (APL) No. 1598 OF 2024

- 1) Dhananjay s/o Mahadevray Sayare,
Aged about 59 years, Occ: Service, O/o
Khadan Police Station, Akola, District
Akola.

.... Applicant(s)

// VERSUS //

- 1) The State of Maharashtra, through
Police Station Officer, Nandanvan
Police Station, Nagpur
- 2) "X" informant in F.I.R. No. 215/2024,
registered at Police Station
Nandanwan, Nagpur.

.... Non-applicant(s)

Mr. S. Sonawane, Advocate with Advs. Amit Thakur, Shantanu Bhoya and
Shiba Thakur, for the applicant.

Ms S.V. Kilhe, APP for the non-applicant/State

Mr. Rajnish Vyas, Advocate for the non-applicant No.2

CORAM: VINAY JOSHI AND ABHAY J. MANTRI, JJ.
DATED : 25/10/2024.

ORAL JUDGMENT : (PER : VINAY JOSHI, J)

1. Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally by the consent of the learned Advocates for the parties.

3. By this application, the applicant is seeking to quash First Information Report vide Crime No.215/2024 registered with Police Station Nandanwan, Nagpur City for the offence punishable under Sections 294, 323, 354, 354-A, 354-B, 354-D and 452 of the Indian Penal Code. Initially quashing was sought on merits however, now the matter is settled hence, it is sought on account of settlement between the parties..

4. At the instance of the report lodged by a lady aged 23 years, crime has been registered. It is the prosecution case that informant's father was having friendly relations with the applicant as both were serving in police department. The applicant was frequently visiting at the residence of informant, hence both had close acquaintance. The informant stated that the applicant took disadvantage of the family relations and by keeping ill eye sent obscene messages, persistently called her and did certain acts which she spelt out in the

first information report. On the basis of those allegations, crime has been registered.

5. The informant lady has appeared *suo motu* through Mr. R.R. Vyas, learned counsel and filed the reply stating about the settlement and her no objection to quash the proceeding. On 23.10.2024 also the informant was present accompanied by her mother.

6. The informant has stated that the matter has been amicably settled. She does not wish to go with the prosecution. The informant expressed the concern that pendency of the prosecution may disturb her educational career as well as mental peace. She has expressed that some incriminating material was stored in the cell phone of the applicant which requires to be destroyed. On the last date, when the matter came up before us and as suggested by both the sides, we direct the applicant to surrender the mobile phone with the Investigating Officer which he did.

7. Today, the informant is present accompanied by her father who is serving in police department. Both of them again urged that

in view of settlement, proceeding may be quashed. The informant has done B.Tech and now preparing for Union Public Service Commission exam. She has stated before us that due to pendency of Criminal prosecution, she is mentally disturb and would feel free if the prosecution has been disposed of. She feels embarrassment and mental pressure due to on going prosecution. The informant's mother as well as father both requested us to quash the proceeding. They expressed another angle that the informant is of marriagable age and continuation of prosecution would certainly come in her way of getting married.

8. Today the applicant has filed the affidavit stating that he has already surrendered the cell phone to the Investigating Officer. He has stated in the affidavit that he has no objection to reformat the mobile phone. He has submitted that the alleged entire incriminating material has been deleted from the mobile in presence of the informant by the Expert namely Shri Mohit Govindini prior to 23.10.2024. He also stated in the affidavit that he has neither copied nor trasmitted the incriminating data.

9. The informant lady has also filed affidavit that he has no objection to delete the entire incriminating material. She is aware of the fact that deletion of said material may destroy the evidence against the applicant. She knowing well urged that entire incriminating material be deleted as matter is settled.

10. On registration of the crime, the applicant who is the Police Inspector has made every efforts to secure pre-arrest bail up till the Apex Court, however, failed. Obviously, the said aspects would not come in our way while excising inherent powers, particularly, when the matter has been amicably settled. There is no embargo in exercising the powers of this Court, except the self imposed restrictions. The very purpose of investing powers is to secure the ends of justice. The nature of accusation indicates that the applicant by misusing his position, has tried to exploit young girl, however, now everything has been put to an end by way of a settlement. We took a special note about the wish of the informant and her parents as they do not desire to continue the prosecution, for the reason which we noted above.

11. The learned APP resisted to quash the proceeding, however, we are looking to the matter from every possible angle, including the repercussion on the parties and especially on the victim.

12. We may recall the exhaustive guiding principles laid down by the Hon'ble Supreme Court in case of *Narinder Singh & Ors. Vs. State of Punjab & Anr.* (2014) 6 SCC 466, pertaining to the quashing of prosecution on account of settlement between the parties. It is observed that quashment of proceeding depends on the facts and circumstances of each case. The power of quashing is guided by the material on record, whether the ends of justice would justify such exercising of power. It is observed that the main guiding factor in such cases would be to secure the ends of justice or to prevent abuse of process of Court. Such power is not to be exercised in those prosecutions which involve heinous and serious offences like, murder, rape, dacoity or under Special statute like the Prevention of Corruption Act.

13. The facts narrated above, indicate that the victim is well educated lady. The allegations are restricted to her extent and the

offence cannot be said to be having larger social impact. Since the matter is settled, possibility of conviction are remote and bleak. Considering the peculiar features of the case, we are inclined to exercise our inherent powers.

14. The principal offence against the applicant is of Section 354 of the Indian Penal Code, which may attract maximum imprisonment which may extend to five years. Though, some other Section like Sections 392, 452 of the IPC have been added. However, the maximum punishment prescribed under the law is to the extent of 7 years of the imprisonment.

15. It is evident that a well educated lady is the victim of the crime, who is absolutely not inclined to go with the prosecution as she is scared about her future as well as her parents have also expressed that the continuation of the prosecution may affect her marital prospects. We do not see any justification or reason to continue the prosecution against her wishes, as it would be against the interest of victim. Rather the ends of justice would be secured

by quashing the prosecution. It will also soothe the informant as per her wish which is expressed by herself along with her parents.

16. At this stage, we brought to the notice of the applicant that due to registration of the crime, the police investigated the matter, as well as Courts have been approached at various levels. At this stage, applicant's learned counsel makes a statement that the applicant would deposit a sum of Rs.3 Lakhs towards costs.

17. It is informed by the learned APP that the applicant is facing departmental inquiry and he is under suspension. We make it abundent clear that quashing of the criminal prosecution has no impact on pending departmental action and it may go on as permissible under the law. Since it is urged by both the parties that the seized mobile phone may be reformatted, we permit the Investigating Officer to do so through Expert and return the mobile to the applicant.

18. In above peculiar facts, we are inclined to exercise our inherent powers. Accordingly, we pass the following order:

- (i) The application is **allowed**.
- (ii) We hereby quash and set aside the First Information Report vide Crime No.215/2024 registered with Police Station Nandanwan, Nagpur City for the offence punishable under Sections 294, 323, 354, 354-A, 354-B, 354-D and 452 of the Indian Penal Code, against the applicant namely, Dhananjay s/o Mahadevray Sayare.

- 19. The applicant shall deposit the sum of Rs.3 Lakhs with the High Court Bar Library, Nagpur on or before 11.11.2024.
- 20. Stand over to 12.11.2024 for noting compliance.

[ABHAY J. MANTRI, J]

[VINAY JOSHI, J]