



Judgment

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

CRIMINAL APPLICATION [APL] No. 1618/2024.

Dhammapal Gulab Narwade,
Age 34 years, Occupation Private,
resident of Mohgaon Hade,
Risod, Washim.

... APPLICANT.

VERSUS

1.State of Maharashtra,
through PSO, PS Risod,
District Washim.

2.XYZ Victim,
Crime No.331/2021, PS Risod,
Washim.

... NON-APPLICANTS.

Mr. M.N. Ali, Advocate for the Applicant.
Mr. A.M. Ghogare, A.P.P. for Non-applicant No.1.

CORAM : VINAY JOSHI AND
ABHAY J. MANTRI, JJ.

DATE : OCTOBER 24, 2024.

Rgd.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. Admit.

By consent of the learned Counsel appearing for the parties, the matter is taken up for final disposal.

2. This is an application seeking to quash the criminal prosecution bearing Sessions Trial No.43/2022 pending on the file of the Principal District and Sessions Judge, Washim arising out of first information report bearing Crime No.331/2021 registered with Risod Police Station, Washim for the offence punishable under Sections 376, 376[2][[f][n], 313, 498-A, 323, 294 of the Indian Penal Code.

3. The learned Counsel for the applicant would submit that the matter is already settled and this Court has quashed the criminal prosecution against 5 co-accused in Criminal Application No.1294/2024 vide judgment and order dated 27.09.2024, on the basis of consent. It is further submitted that the main allegations are

Rgd.

against co-accused Sanghpal, whose prosecution has been quashed. The remaining accused are relatives of husband facing the similar type of allegation. It is submitted that while allowing the aforesaid criminal application, the informant lady has appeared before the Court and gave her no objection to quash the prosecution, which has been recorded in paragraph no.6 of the order of this Court.

4. With the assistance of the learned Counsel for the parties, we have gone through the relevant papers. The informant lady has lodged report against her husband and relatives of husband. Grave allegations were against Sanghpal, informant's brother-in-law about sexual assault. The allegations against rest are of general nature. The informant lady has settled the matter in entirety by filing reply in Criminal Application No.1294/2024. The relevant observations made in paragraph no.6 of the order in said matter reads as under :

“6. Though there was a matrimonial discord, however, with the aid and intervention of relatives, dispute has been settled. The informant lady has filed a reply stating that the relationship was consensual and now as the matter is settled, she does not wish to go on with the prosecution. The informant is present

before us, who is identified by her Counsel. The informant stated that since last two years, she is residing with her husband since the matter is settled. She urged to quash the proceedings as the pendency of prosecution would become a hurdle in her matrimonial life. She has also stated that the future of her minor kids would be in dark in case the prosecution is continued.”

5. It is apparent that the informant intended to quash the entire proceeding since she has submitted that pendency of prosecution would become hurdle in her matrimonial life. Having regard to the said special feature, we do not see any reason to keep this ancillary prosecution pending against Dhammapal, against whom no major allegations are leveled. We may reiterate that the informant has already settled the dispute with all other accused, including the main culprit. In the circumstances, continuation of prosecution would yield nothing, but, would be an abuse of the process of Court.

6. In view of above, Criminal Application is allowed and disposed of. The Sessions Trial No.43/2022 pending on the file of the Principal District and Sessions Judge, Washim arising out of first

information report bearing Crime No.331/2021 registered with Risod Police Station, Washim for the offence punishable under Sections 376, 376[2][[f][n], 313, 498-A, 323, 294 of the Indian Penal Code, is hereby quashed and set aside against present applicant.

JUDGE

JUDGE