



Judgment

28 apl 706.24

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

CRIMINAL APPLICATION (APL) NO. 706/2024

Ankush s/o Vilasrao Pakhale,
aged 25 yrs., Occ. Agricultural
Labour, R/o. Ward No. 03, Nandpur,
Tah. Arvi, Dist. Wardha.

... **APPLICANT.**

VERSUS

1. State of Maharashtra,
through P. S.O.
Arvi, Tah. Arvi, Dist. Wardha.
2. XYZ (Victim) in Crime No.875/2019
registered with P.S.O. Arvi, Tah. Arvi,
Dist. Wardha.

... **NON-APPLICANTS**

Mr. M.V. Rai, Advocate for applicant.
Mrs. M. Deshmukh, APP for non-applicant No.1.
Mr. M. Yadav, Advocate for non-applicant No.2.

CORAM : VINAY JOSHI AND
ABHAY J. MANTRI JJ.

DATE : 11.11.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

2

3. This is an application seeking to quash criminal prosecution namely Special (Child Act) Case No.12/2020 arising out of Crime No. 875/2019 registered with Police Station Arvi, Wardha for the offence punishable under Sections 354-A, 354-D, 376(3), 452 of the Indian Penal Code, Sections 4, 6, 8 of the Protection of Children from the Sexual Offences Act.

4. At the instance of report lodged by mother of victim, crime has been registered. The victim is a minor daughter of the informant lady. It is her case that the applicant was nearby resident who was in visiting terms at her house. The victim has informed that on 09.12.2019, in the afternoon, the applicant followed her and by expressing love outrage her modesty and therefore, report. During the course of investigation, statement of several witnesses including victim have been recorded. The victim aged 15 years disclosed that from last one year, the accused has expressed her love, on which both were involved in relationship. Time and again, they used to meet and also had physical relationship. On completion of investigation, charge-sheet has been filed. The Trial Court has recorded evidence of all

3

witnesses, but yet the matter has not been proceeded further.

5. The matter has been amicably settled between the parties. Particularly, the applicant got married with victim on 05.01.2024 of which marriage registration certificate has been produced. It is informed that the victim who has attained majority is carrying pregnancy of five months. The relevant medical papers have been produced to show the applicant's name as a father. On this premise, the matter is sought to be quashed.

6. The informant mother today appeared before this Court and filed affidavit about no objection to quash the proceeding. The victim lady is also present. She has reiterated her earlier version that due to settlement, she does not wish to go on with the prosecution. In past also, on 2 to 3 occasions, she appeared before this Court through Advocate and urged to quash the proceeding. The victim particularly stated that by the time, she got married with the applicant and now she is pregnant. The victim and her mother both stated that from the date of marriage victim is staying with applicant and living peacefully

4

as husband and wife. Both would submit that quashing of the proceeding would be in the interest of victim as in case of continuation of trial, future of victim as well as her expected child would be in dark.

7. The learned counsel for applicant would submit that the offence is grave, however in various decisions, this Court has shown indulgence in quashing of the proceeding. In this regard, he relied on decision of this Court in cases of *Criminal Application (APL) No. 1041/2023 (Sonu @ Dilip Vithalrao Gawande & anr. Vs. State of Maharashtra & anr., decided on 01.11.2023)*, *Swapnil Digambar Patil Vs. The State of Maharashtra & anr, (decided on 03.01.2022)*, *Nauman Suleman Khan Vs. State of Maharashtra & anr., 2022 ALL MR (Cri) 4427*. Our attention has been drawn to the decision of the Supreme Court in case of *Ramgopal & anr. Vs. The State of Madhya Pradesh (Criminal Appeal No. 1489/2012, decided on 29.09.2021)* to contend that having regard to the peculiarity of facts, the Supreme Court has also allowed quashing even after conviction.

5

8. The case has its own peculiarity. The victim lady is pregnant and by the time, both are living peacefully. We are of the considered opinion that the continuation of trial would certainly break the marriage and ultimately future of girl with her child would be in dark. The inherent powers of this Court are vested with the purpose of securing ends of justice. Considering the exceptional circumstances made out before us and taking into account future of lady, we are inclined to exercise our inherent powers. The learned counsel for applicant expressed to deposit sum of Rs. 20,000/- towards rotating police machinery.

9. In view of above, application is allowed. We hereby quash and set aside criminal prosecution namely Special (Child Act) Case No.12/2020 arising out of Crime No. 875/2019 registered with Police Station Arvi, Wardha for the offence punishable under Sections 354-A, 354-D, 376(3), 452 of the Indian Penal Code, Sections 4, 6, 8 of the Protection of Children from the Sexual Offences Act..

6

10. The applicant shall deposit sum of Rs. 20,000/- with the Government Pleader Library, High Court Nagpur within two weeks from today.

11. Application stands disposed of in above terms.

12. Stand over to 25.11.2024 for noting compliance.

(ABHAY J. MANTRI J.)

(VINAY JOSHI, J.)