



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No. 1194 Of 2024

Shantilal S/o Goraksha Khatal,
Age : 32 years, Occu: Business,
R/o: Maliwadi, Taluka Shirur
District Beed.

.. Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Chikaithana Police Station,
Taluka and District Aurangabad.

2. XYZ

.. Respondents

- * Advocate for the Applicant : Mr. Apparao Kharosekar
- * APP for Respondent / State : Mr. N.S. Tekale
- * Advocate for Respondent No.2 : Mr. S.R. Nikam h/f Mr. O.B. Bhoiawad

**CORAM : SANDIPKUMAR C. MORE AND
MEHROZ K. PATHAN, JJ..**

DATE : 16th OCTOBER 2025

FINAL ORDER (Per Mehroz K. Pathan, J.) :

1. The Applicant has filed the present application, thereby praying for quashing and setting aside the Charge-sheet No.118/2018 Dated 04/09/2018 and the First Information Report No. 266/2017 Dated 12/07/2017 registered at Chikalhana Police

Station, Taluka and District Aurangabad U/Sec. 366, 376(2), (n) of the Indian Penal Code.

2. The present Applicant is the husband of the real sister of Respondent No.2, who lives at Pune with the real sister of Respondent No.2 and used to visit Village Wadgaon (Bk.) from the residence of the Respondent No.2. That the allegation is that on 19.04.2017 at about 07:00 pm., the Applicant/brother-in-law had called upon the complainant to bring documents for getting job in the bank at Pune. The Applicant and his friend were sitting in a white car and asked the complainant to accompany them to travel to Pune. Upon refusal, the complainant was forced to sit in the car and they traveled to Pune to the sister's house. It is further alleged in the complaint that when the sister of the complainant/Respondent No.2 herein, was going for work, the Applicant used to commit intercourse with the complainant and threatened her that if she informs the said incident of forcible intercourse, the Applicant would leave her sister. Thus the complainant did not inform her sister and the family members about such act of the Applicant. That on 22.04.2017, the Applicant and complainant went to Jejuri for Khandoba Darshan where the Applicant took photographs of the complainant. Thus from 19.04.2017 to 26.04.2017, the Applicant gave a false promise of getting a job in the bank and had forcibly committed sexual intercourse with the complainant. Thus the complainant stated in the F.I.R. that because of the forcible sexual intercourse committed by the Applicant on the complainant/Respondent No.2 herein, from 19.04.2017 to 26.04.2017, the complainant realized that she would be defamed in the society and as such thought it proper to file a

complaint against the present Applicant, after informing about the same to the family members, had therefore lodged the complaint for appropriate action against the present Applicant. Thus the F.I.R. was lodged at Chikhalthana Police Station, Aurangabad for the offences under Sections 366, 376(2) (n) and 506 of the IPC.

3. The present application filed by the Applicant, on the ground that as the Applicant is the brother-in-law of the complainant and they are close relatives of each other and so as to maintain the harmony between the family members, decided to resolve the matter amicably. It is further submitted that the complainant is now married, has one daughter, and is residing happily with her husband. Therefore, she does not wish to continue the proceedings any further, in order to avoid embarrassment to herself and her husband. The Applicant therefore prays that on the basis of the settlement, the FIR and the consequent proceedings may be quashed by this Court in exercising powers under Section 482 of the Code of Criminal Procedure Code.

4. The complainant/Respondent No.2 has also filed an affidavit in support of the application seeking quashment on the ground of settlement through her Advocate Shri. Bhoinwad alongwith compromise terms wherein she has specifically stated that since both Applicant and complainant are closely related to each other, they have decided not to proceed further in the present crime and that the complainant is married and she is residing with her husband happily and that she is also having one daughter out of the wedlock and is again pregnant with another child from her

husband. The affidavit filed by the complainant therefore supports the application for seeking quashment of the F.I.R.

5. Learned Counsel for the Applicant has relied upon the judgment of the Hon'ble Supreme Court passed in the matter of **Madhukar and Others Vs. State of Maharashtra and Anr.**, reported in 2025 INSC 819, wherein the Special Leave to Appeal was filed against the order of the High Court rejecting the application for quashing of the F.I.R. filed under Section 482 Cr.P.C., as the offence registered was under Section 376 IPC being of a serious and non-compoundable in nature, could not be quashed merely on the basis of the settlement or monetary compensation. The Applicants in the said appeal filed an SLP before the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to observe as under :

“6. At the outset, we recognise that the offence under Section 376 IPC is undoubtedly of a grave and heinous nature. Ordinarily, quashing of proceedings involving such offences on the ground of settlement between the parties is discouraged and should not be permitted lightly. However, the power of the Court under Section 482 CrPC to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case.”

6. The learned APP Shri. Tekale appearing for the Respondent No.1/State has opposed the present application on the ground of settlement seeking quashment of the offence which is registered under Sections 366, 376(2) (n) of the IPC. It is submitted that this Court in an identical order passed in Criminal Application No.864/2024 had rejected such an application which was filed seeking quashment of the F.I.R. registered under Section 376. It is

submitted that the offence of rape being a heinous crime, may not be allowed to be settled only on the ground that the parties have settled their dispute and do not want to prosecute further. He therefore submits that in view of the law laid down by the Hon'ble Apex Court and also this Court in Criminal Application No.864/2024, the F.I.R. may not be quashed in exercise of powers under Section 482 of the Cr.P.C.

7. We have the learned Counsel Mr. Apparao Kharosekar for the Applicant, learned Counsel Mr. Bhoinwad for the Respondent No.2 and the learned APP Mr. Tekale for the State. We have also gone through the record of the charge-sheet filed by the prosecution after completion of investigation which is now registered as Special Case No.431/2019 dated 20.03.2020.

8. We have considered the submissions of the learned Counsel for the Applicant and Respondent No.2 and the learned APP. After perusal of the judgment and going through the record i.e. charge-sheet, we found that there is a considerable delay of 2 months in registering the F.I.R. for the offence of rape by the complainant and from the record it appears that the complainant being major, it appears on record that there was no forcible intercourse as the complainant failed to report the incident immediately after reaching her village.

9. In such background, it would be relevant to note the observation of the Hon'ble Supreme Court in another identical matter in which the Hon'ble Supreme Court was pleased to quash

the F.I.R. on the allegation of rape, on the ground of the parties have settled the dispute amongst themselves.

10. We are also in agreement with the submission of the learned APP for the State that there are various judgments of the Hon'ble Supreme Court which reiterate the legal position that in heinous and serious offences like murder and rape, the Court shall not quash the proceedings only on the ground of settlement. However the Hon'ble Supreme Court in the aforesaid judgment in **Kapil Gupta Vs. State of NCT of Delhi and Ors**, 2022 INSC 814 was pleased to observe as under :

“13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.”

11. Thus what could be discerned from the two judgments mentioned hereinabove i.e. Kapil Gupta and the recent judgment of the Hon'ble Apex Court in the case of Madhukar and Others (supra) that the powers of the High Court under Section 482 Cr.P.C. to secure the ends of justice are not constrained by any rigid formula and must be exercised with reference to the facts of each case. It can also be seen that the High Courts are not foreclosed from examining whether there exists material to incorporate such an offence, or whether there is sufficient evidence

which, if proved, would establish the charge for the offence alleged. It has also been laid down by the Hon'ble Apex Court in the aforesaid judgments that an important aspect for the Courts to consider is whether the settlement between the parties is likely to result in harmony between them, thereby improving their mutual relationship. Thus, considering the present case in light of the aforesaid observations of the Hon'ble Supreme Court, as laid down in the two judgments cited supra, we have scrutinized the charge-sheet and found that the statement of the complainant/victim does not inspire confidence that the Applicant committed forcible sexual intercourse upon her. It is also found from the record that the Applicant was major on the date on which the rape and kidnapping is alleged to have been committed. It is also evident from the record that when the complainant/XYZ returned to her village after the alleged incident of rape committed between 20.04.2017 and 25.04.2017, she did not provide any reason as to why the F.I.R. was not lodged immediately against the Applicant. It could also be seen from the record that when the Applicant has allegedly kidnapped the complainant and taken her to Pune at her sister place, the complainant did not inform about the alleged rape incident either to her sister or to her mother telephonically from the village. Thus the allegations in the complaint do not inspire any confidence about the forcible sexual intercourse as narrated by the complainant in the F.I.R.

12. As per the observations of the Hon'ble Apex Court in the judgment reported in Kapil Gupta (supra), it could be seen that there does not exist any material for incorporation of such an

offence and nor any sufficient evidence which if proved would lead to proving the charge of kidnapping and rape against the present Applicant.

13. We have also considered the fact that the Applicant and the Respondent No.2 herein, are close relatives, as the Applicant happens to be the husband of the real sister of the complainant and that the complainant/Respondent No.2 herein, is already married and is having one daughter out of the wedlock and is again pregnant with another child and is also living happily with her husband, as could be seen from the separate affidavit filed by the Respondent No.2 through her Advocate.

14. Thus the other condition required to be taken into consideration as per the judgment of the Hon'ble Apex Court is that whether the settlement between the parties is going to result into harmony between them, which may improve their mutual relationship, is also fulfilled.

15. Thus, taking into consideration the recent judgment of the Hon'ble Apex Court particularly wherein it has been laid down that the offence under Section 376 IPC is undoubtedly grave and heinous, and that ordinarily, quashing of proceedings involving such offences on the ground of settlement between the parties is discouraged and should not be permitted lightly, it is also recognized that the power of the Court under Section 482 Cr.P.C. to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case.

16. In our view, therefore, this is a fit case in which it is appropriate to exercise the powers under Section 482 Cr.P.C. to secure the ends of justice. Accordingly, the F.I.R. and the consequent proceedings shall be quashed and set aside. Hence, the following order :

ORDER

- (i) The Charge-sheet No.118/2018 Dated 04/09/2018 and the First Information Report No. 266/2017 Dated 12/07/2017 registered at Chikalthana Police Station, Taluka and District Aurangabad U/Sec. 366, 376(2), (n) of the Indian Penal Code, are quashed and set aside.
- (ii) The Special Case No.431/2019 dated 20.03.2019 pending with the District and Sessions Judge No.3, Aurangabad, is hereby quashed and set aside,
- (iii) The above order is passed subject to the cost of Rs.1,00,000/- (Rupees One Lakh) to be paid to the Office of the Government Pleader to be utilized for its library.
- (iv) The application is allowed in the above terms and hereby disposed of.

[MEHROZ K. PATHAN]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE

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