



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

Criminal Application No. 1476 Of 2024

1. Shaikh Kashif s/o Shaikh Arif,
Age : 35, Occu. Labour,
2. Shaikh Jamir s/o Shaikh Sandu,
Age : 48 years, Occ. Teacher,
3. Shaikh Arif s/o Shaikh Sandu
Age : 62 years, Occ. Nil,
All r/o Millat Nagar, Faizpur,
Tal. Yawal, Dist. Jalgaon.

.. Applicants

Versus

1. The State of Maharashtra
2. XYZ

.. Respondents

- * Advocate for the Applicants :
Mr. Shaikh Nasimoddin Rafiuddin
- * APP for the Respondent No.1/State :
Mr. S. R. Wakale
- * Advocate for the Respondent No.2 :
Ms. Shilpa D. Magre h/f Mr. Vijay B. Patil

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

RESERVED ON : 8th OCTOBER 2025

PRONOUNCED ON : 14th OCTOBER 2025

O R D E R (Per Mehroz K. Pathan, J.) :

1. The application is filed by the present Applicants, thereby praying for quashing and setting aside the First Information Report No.37/2021 registered with Faizpur Police Station, Tal. Yawal and Dist. Jalgaon for offences under Section 376(2)(f), 498-A, 354-D, 323, 504, 506 read with 34 of the Indian Penal Code and Session Case No.56/2021 pending before the Sessions Court, Bhusawal Dist. Jalgaon. The application has filed on the ground of amicable settlement between the Applicants and the Respondent No.2/wife arrived at by the parties and it is also informed that the Respondent No.2 is cohabiting with the Application No.1/Kashif and therefore the F.I.R and the proceedings may be quashed accordingly in exercise of powers under Section 482 of the Code of Criminal Procedure.

2. After issuance of notice, the Respondent No.2 has also filed their appearance and the affidavit in response to the application under Section 482 Cr.P.C. It is confirmed in the affidavit filed on behalf of the Respondent No.2/wife that the settlement has been arrived at between the Applicants and the Respondent No.2 and in pursuance to such compromise, all the proceedings filed against each other by the Applicants and the Respondent No.2 herein, were withdrawn except for the one pending application for quashing of the F.I.R. It is further stated in the affidavit by the wife that the Respondent No.2/wife and the Applicant No.2/husband are residing and cohabiting together since last three years and that there is no interference of the Applicant Nos. 1 and 3 in the matrimonial life of Applicant No.2 with

Respondent No.2. It is further stated that they are residing separately from the Applicant Nos. 1 and 3.

3. Though there was an order dated 02.05.2024 which stated that the request for quashing the F.I.R. could be considered only after receipt of the forensic report as there were allegations about the rape which were being allegedly video graphed in the mobile phone of Applicant No.1. It is informed by the Respondent No.2/wife in her affidavit that that there was no such video-clip ever found during the course of investigation and as such there is no question of the obtaining forensic report. Thus it is submitted that the dispute amongst the parties being matrimonial in nature, the same may be quashed and set aside in exercise of powers under Section 482 of Cr.P.C. to put an end to the litigation.

4. The learned APP submits that though the nature of the allegations appears to be matrimonial, however there are allegations of sexual assault punishable under Section 376 (2)(f) and as such the same cannot be quashed on compounding being grievous in nature. The learned APP relies on the judgment of the Division Bench of this Court in Criminal APL No.864/2024 dated 30.06.2025, wherein under identical situation, this Court has refused to quash the F.I.R. on the ground that such offences cannot be compromised, as such type of compromises are not in the interest of the society.

5. On the other hand, the learned Counsels for the Applicants and the Respondent No.2 have relied upon the judgment passed

by this Court at Nagpur Bench in **Indal Laxman Thombre and Anr. Vs. State of Maharashtra** reported in AIR Online 2021 Bom 1823, wherein in identical situation, this Court had considered the powers under Section 482 Cr.P.C. and quashed an F.I.R. under Sections 367 (2)(f), 354 and 506 of the Indian Penal Code, relying upon the judgments of the Hon'ble Supreme Court, holding that no purpose would be served by keeping the F.I.R. alive except ultimately burdening the Criminal Courts which are already overburdened.

6. The learned Counsel for the Applicants and the Respondent No.2 have further relied upon the judgment of another Division Bench of the Bombay High Court at Nagpur Bench in **Mohan Vs. State of Maharashtra and Ors.**, MANU/MH/4193/2023, wherein in the identical situation, this Court while exercising powers under Section 482 of Cr.P.C. was pleased to quash an F.I.R. under Section 376 (2)(n) of IPC.

7. We have considered the submissions advanced by the Applicants, perused the record and also the judgments relied upon by the learned Counsel Mr. N.R. Shaikh for the Applicants, learned Counsel Mrs. Shilpa Magre holding for Mr. Vijay Patil for Respondent No.2 and the learned APP Mr. S.R. Wakale appearing for the State.

8. The perusal of the application would show that the F.I.R. was filed by the wife – Respondent No.2 herein, alleging cruelty and harassment against the Applicant/husband and the in-laws. The allegations further consist of the sexual assault by one of the

accused Shaikh Kashif Shaikh Arif, wherein he was alleged to have committed rape and the same was alleged to have been recorded in a camera by the accused Shaikh Kashif who was a nephew of the husband of the complainant/Respondent No.2 herein.

9. The perusal of the application under Section 482 of Cr.P.C. would show that the matter is amicably settled between the Applicants/in-laws and the Respondent No.2/wife in Lok-Adalat on 09.09.2023 which is also a part of the record of the present application at Exhibit-C collectively. It is further stated in the application that the proceedings against each other filed by the Respondent No.2 and the Applicants, were also withdrawn in pursuance to the compromise arrived at between the Respondent No.2 and the family/in-laws. The affidavit-in-reply filed by the Respondent No.2/wife, clearly states about the compromise arrived at between the parties and the various proceedings being withdrawn. It is further stated in paragraph no.2 of the reply that the Respondent No.2/wife and the Applicant No.2/husband are residing together since last three years and that there is no interference of the Applicant Nos. 1 and 3 in the matrimonial life of Applicant No.2 and Respondent No.2.

10. Thus from the facts emerging from the allegations in the F.I.R., charge-sheet and the application as well as reply filed by Respondent No.2/wife, it could be seen that the allegations of matrimonial discord were exaggerated to the extent of levelling allegations of rape against the Applicant No.1 who happens to be

the nephew of the husband/Applicant No.2. It is therefore necessary to weigh the evidence relied upon by the prosecution to prove a case on its merits as the same cannot be quashed on compounding. The perusal of the evidence led by the prosecution would show that apart from the mere bald allegations of the victim – Respondent No.2 herein, there is nothing on record to show that the wife/Respondent No.2 was actually raped by the Applicant No.1/Kashif who happens the nephew of the Applicant No.2.

11. The F.I.R. shows that the incident of rape is of November, 2019 whereas the F.I.R. was registered on 26.03.2021. Thus there is a delay of over 16 months in lodging the F.I.R. which appears to be very doubtful. The allegation about Applicant No.1/Kashif recording the video while committing rape on her, is also found to be doubtful inasmuch as the Investigating Officer has failed to collect such video, either from the prosecutrix or from the Applicant No.1 during the course of investigation. It would be further pertinent to note that there are several proceedings filed by the victim-Respondent No.2 herein, after the alleged incident of rape mentioned in the F.I.R. to be of 27.12.2018. The F.I.R. shows that the rape was allegedly committed by Applicant No.1 on 27.12.2018. The Respondent No.2 had thereafter filed several proceedings including 125 Cr.P.C. proceeding on 26.11.2020 which is also dismissed for want of prosecution in view of the compromise. The next proceeding filed by the wife after the allegation of alleged rape on 27.12.2018 is the D.V. proceeding no.162/2020 filed on

26.11.2020 which is also compromised in the Lok-Adalat. The triple talaq complaint being Crime No.12104/2020 filed by the Respondent No.2 is also filed on 11.12.2020 which is also after the alleged incident of rape dated 27.12.2018 which is also compromised in Lok-Adalat. The civil suit for declaration against talaq is filed on 08.03.2021 which is also after the alleged date of rape dated 27.12.2018. Thus in all such complaints made by the Respondent No.2/wife after the date of alleged incident of rape dated 27.12.2018, the Respondent No.2/wife did not make a whisper about the allegation of rape committed by the Applicant No.1, nephew of the husband while the Respondent No.2/wife was residing in the matrimonial home. This fact creates a serious doubt about the allegations of rape made by the complainant in the F.I.R. and makes the said F.I.R. fall into the category of inherently improbable allegations which is one of the exception in the landmark judgment reported in AIR 1992 SC 604, **State of Haryana Vs. Bhajan Lal**.

12. There is no other corroborative piece of evidence which supports the sexual assault theory, narrated by the complainant in her F.I.R. Nor does the corroborative piece of evidence, i.e. the mobile phone was ever seized during the course of investigation. Thus looking it from any angle, the allegations of rape are not supported by any evidence, the same liable to be quashed and set aside on merits. In the backdrop of the material collected by the Investigating Authority, we are satisfied that the ingredients of the offence alleged are not made out. Moreover the parties have mutually settled the dispute, therefore the chances of

conviction are also remote and bleak.

13. The Hon'ble Supreme Court in the matter of **Madhukar and Ors. Vs. The State of Maharashtra and Ors.**, 2025 ALLMR (Cri) 3248, was pleased to quash the FIR wherein there were allegations of rape on the ground of settlement of dispute between the parties, specifically observing that continuation of the trial would not serve any meaningful purpose. It would only prolong distress for all concerned, especially the complainant, and burden the Courts without the likelihood of a productive outcome.

14. Thus in view of the peculiar facts of the present case, the continuation of the proceedings would be an exercise in futility and as such to secure the end of justice, we deem it appropriate to invoke our inherent powers to quash and set aside the F.I.R. and the consequent proceedings. Hence we pass the following order :

ORDER

(i) The Criminal Application is allowed.

(ii) The First Information Report being F.I.R. No.37/2021 is quashed and set aside and consequently the proceeding being Sessions Case No.56/2021 pending before the Sessions Court, Bhusawal Dist. Jalgaon for the offences under Section 376(2)(f), 498-A, 354-D, 323, 504, 506 read with 34 of the Indian Penal Code , is also quashed and set aside.

(iii) However looking to the fact that the parties have utilized the police machinery and after filing of the charge-sheet, have now compromised the matter, it would be expedient in the

interest of justice that the cost of Rs.15,000/- shall be paid by the Applicants and the complainant, to the Registrar of this Court.

(iv) Upon depositing such cost of Rs.15000/-, the Registrar shall forward the same to the account of the Medical Dispensary of this Court.

MEHROZ K. PATHAN
JUDGE

SANDIPKUMAR C. MORE
JUDGE

Najeek.