

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (A.P. L.) NO. 935 OF 2025

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|--------|---|-----------------------------|
| 1) A-1 |] | |
| 2) A-2 |] | |
| 3) A-3 |] | |
| 4) A-4 |] | <u>...Applicants</u> |

Versus

- | | | |
|---------------------------------------|---|-------------------------------|
| 1) The State of Maharashtra, through |] | |
| Inspector Incharge, Karmala Police |] | |
| Station To be served through Public |] | |
| Prosecutor, High Court, Mumbai. |] | |
| 2) XYZ |] | |
| To be served through Karmala Police |] | |
| Station, Karmala Dist-Solapur-413203. |] | <u>...Respondents.</u> |

Note: The names of the Applicants and Respondent No. 2 are masked so as not to reveal the identity of the victim.

Mr. Rahul B. Vijaymane i/by Mr. Shubham R. Vasekar for the Applicants.

Mrs. S. N. Deshmukh, APP for the Respondent No. 1-State.

Mr. Abhay A. Jadhavar for the Respondent No. 2.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : December 22, 2025.

ORAL JUDGMENT: (PER: M. S. KARNIK, J.)

1. Heard learned Counsel for the Applicant and learned APP who opposed the Application seeking quashing of the FIR by consent.
2. The Applicant No. 1 and the victim are cousins. The Applicant No. 1's father and Respondent No. 2's (victim) father are real brothers. The date of the alleged incident is 10th February 2019. It is alleged that at the relevant time the victim was about 13 years of age, and the Petitioner was about 19 years of age. An offence came to be registered at Karmala Police Station under Sections 354, 354A, 324, 504, 506 read with Section 34 of the IPC and Sections 8 and 12 of the POCSO Act against the Applicants. It is alleged that the Applicant No. 1 committed an act which is an offence under the aforesaid sections. On hearing the shouts of the victim, her mother rushed, whereupon the Applicant No. 1 fled.
3. The Applicant and the victim belong to the Scheduled Tribe (Pardhi) community. The victim, who is presently 21 years of age, is present before the Court. She is now married. The victim's mother is also present before the Court. It is stated that due to intervention of elders and mediation within the family, the dispute has been amicably resolved. The victim has stated that she wishes to move on with her

life, particularly in view of her marriage. The victim and her mother have stated that continuation of the prosecution would increase the problems of the victim, which may come in the way of her happy married life. It is submitted that the pendency of the criminal proceedings is a hindrance and would be counterproductive to the victim's settled married life. We have interacted with the victim who insists that she may be relieved from the prosecution, as this is in her best interest.

4. Having regard to the nature of the allegations, the passage of time since the incident, and the categorical statement of the victim expressing her unwillingness to proceed with the prosecution, it is evident that the victim is not going to support the prosecution and depose against the Applicants. From the consent terms on record and the submissions of learned Counsel for the victim, coupled with our interaction with the victim, we are satisfied that continuation of the prosecution would cause agony and hardship to the victim, who has settled down in matrimony and is otherwise leading a happy married life.

5. We have perused the nature of the allegations. It is a clear stand of the victim not to continue with the prosecution. Even if the incident is regarded as an offence against the Society, 'continuation of proceedings and quashment' has to be balanced keeping the victim's

interest in mind. In a gross or heinous case, this Court may decline the request to quash proceedings. The nature of allegations, gravity of the offence, the victim's wish, the turmoil that may result in her personal life and all other attendant circumstances have to be factored in to reach this fine balance. We have carefully noted the incident, but have refrained from setting out details in this order. The interest of the victim far outweighs any other consideration in our view.

6. We have duly considered the submissions of the learned APP opposing the Application that courts should ordinarily be slow in quashing proceedings in matters regarded as offence against the Society. However, in the peculiar facts of the present case, where the victim is now a major, happily settled down in matrimony, having voluntarily expressed her desire not to pursue the prosecution, we find it appropriate to respect her wishes, which, in our view, would advance the cause of justice. Continuing with the prosecution would be an exercise of futility. The possibility of conviction is remote and bleak and the victim is not going to depose against the accused.

7. So far as the Applicant is concerned, he was 19 years of age at the relevant time, pursuing education, and is presently 25 years of age. We have ensured, by interacting with the victim, that there is no pressure or coercion upon her for entering into the consent terms and

that the consent is voluntary, entered into of her own free will. The consent terms entered into between the Petitioner and Respondent No. 2, duly signed by the victim and the Applicant-Accused, are taken on record and marked 'X' for identification. The affidavit filed on behalf of Respondent No. 2 is also taken on record. The victim is identified by the Advocate appearing on her behalf.

8. In such view of the matter, this Application is allowed in terms of prayer clause (b) which reads thus:

"(b) That this Hon'ble Court be pleased to issue writ of certiorari or appropriate writ or Order and or direction and be pleased to call for the record and proceedings of the Spl. Case No. 06 of 2020 pending before the Ld. Addl. Sessions Judge Barshi arising out of Chargesheet No. 12 of 2020 arising out of F. I. R. No. 104 of 2019 dated 10.02.2019 registered with Karmala Police Station for the offence punishable U/s. 354, 354A, 324, 504, 506 r/w 34 of IPC, u/s 8 & 12 of POCSO Act., and after going through the legality and propriety thereof further be pleased to quash and set aside."

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

TALLE
SHUBHAM
ASHOKRAO

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