



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO.679 OF 2022

Ganesh @ Gaurav Sheshrao Bode, age
29 years, Oc. Labour, R/o Plot No. 49,
Near Ganesh Kirana Store, Sanjay Nagar,
Behind University, Nagpur.

... APPLICANT

VERSUS

1. State of Maharashtra, through Police
Station, Bhandara, Dist. Bhandara.
2. XYZ, In Crime No. 127/22, Bhandara
Police Station, Bhandara.

... NON-APPLICANT(S).

Shri Aakash Sorde, Advocate for the applicant.
Shri S.S. Doifode, Addl. Public Prosecutor for the State.
Shri Nischay R. Raut, Advocate for non-applicant no. 2.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.

DATE : 02.04.2025.

JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **ADMIT.**

2. The matter is taken up for final disposal by consent of the parties.
3. By this application filed under Section 482 of the Code of Criminal Procedure, the applicant is challenging the First Information Report ('FIR') No.127 of 2022 registered with the Bhandara Police Station, District Bhandara for the offence punishable under Section 376(2)(n), 506(2) of the Indian Penal Code.
4. Non-applicant no.2 on 19.03.2022, lodged the police complaint alleging that present applicant had come in her contact through social media i.e. Instagram and due to their continuous chatting, their friendship was converted into love relationship. It is alleged by non-applicant no. 2 that on the point of knife the applicant coerced her to wear Mangalsutra. Thereafter, committed sexual intercourse with her and had taken photographs and videos. As such, on the basis of this allegations she has lodged the police complaint at Ambazari Police Station, which was registered vide crime No. 00/2022 under Sections 376(2)(n) and 506(B) of the IPC. As the said offence was committed at Bhandara, the same was transferred to the Police Station, Bhandara, and now, the same is registered as crime No.127 of 2022.

5. In pursuance of the said offence, present applicant was arrested on 23.03.2022 and thereafter, was released on bail by the Sessions Court. The applicant challenged the FIR before this Court, wherein on 05.05.2022, notices were issued and it was directed that the Investigating Officer may continue the investigation, but he shall not file the charge-sheet against the applicant without leave of the Court.

6. Non applicant no.2/informant on her appearance in response to the notices issued by this Court, filed an affidavit dated 02.04.2025 stating that, she and the applicant decided to settle the matter as report was lodged out of frustration and anger. She further stated on oath that continuation of prosecution may become an obstacle in her educational career and marital prospects. Hence by considering all pros and cons of the matter, she has decided to settled the matter with the applicant. Accordingly, she has no objection to quash and set aside the criminal proceeding pending against the applicant.

7. The Hon'ble Supreme Court in the case of ***Kapil Gupta vs. State (NCT of Delhi) and anr. (2022) 15 SCC 44*** has dealt with the issue of invoking the power under Section 482 of the Code of Criminal

Procedure. Hon'ble Supreme Court observed thus :

“12. 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.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No.2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

...

16. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

8. In view of the above factual as well as legal position, it is clear that no fruitful purpose would be served by continuing the prosecution against the accused. The non-applicant no.2 is not likely to support the prosecution, even if, the trial is allowed to proceed. It will amount the wastage of judicial time and energy, and further abuse of the process of Court. Hence, we proceed to pass the following order :

ORDER

- (a) The Criminal Application is allowed.
- (b) First Information Report ('FIR') No.127 of 2022 registered with the Bhandara Police Station, District Bhandara for the offence punishable under Section 376(2)(n), 506(2) of the Indian Penal Code and further consequential proceedings arising out therefrom, is hereby quash and set aside.

9. The Criminal Application stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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