



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

CRIMINAL APPLICATION (APL) NO.1436 OF 2024

Kushalkumar s/o Ramesh Chandra,
Aged 31 years, Occ: Service,
R/o C/o Ramesh Chandra, C-Block,
Shyam Nagar, C.O.D., Kanpur,
Uttar Pradesh.

...APPLICANT

...V E R S U S...

1. State of Maharashtra,
Through PSO, Ranapratap Nagar,
Nagpur, District Nagpur.
2. X.Y.Z./Victim
Crime No.336/2023
P.S. Ranapratap Nagar, Nagpur,
Dist. Nagpur.

...NON-APPLICANTS

Shri R.R. Bagade, Advocate for applicant.
Shri Nikhil Joshi, APP for non-applicant no.1/State.
Shri K.Y. Mandpe, Advocate for non-applicant no.2.

CORAM :- N.B. SURYAWANSHI &M.W. CHANDWANI, JJ.

DATED :- 14.01.2025.

ORAL JUDGMENT (PER : N.B. SURYAWANSHI, J.):

. **Rule.** Rule is made returnable forthwith, heard by
consent of the parties.

2. This application is filed under Section 528 of the
Bhartiya Nagrik Suraksha Sanhita, 2023 for quashing of the First

Information Report No.336/2023 lodged by non-applicant no.2 with Ranaprataap Nagar Police Station, Nagpur for the offences punishable under Sections 376(n), 377 and 506 of the Indian Penal Code and the further proceedings of R.C.C. No.3272/2023 pending before learned 16th Judicial Magistrate First Class, Nagpur.

3. It is alleged in the FIR that non-applicant no.2 got acquainted with the applicant in the year 2021 in the marriage at Jhansi and they exchanged their cellphone numbers and started chatting on WhatsApp. On 22.04.2022, the applicant came to Nagpur and invited non-applicant no.2 to Treebo Tryst Median Inn Hotel, Jaitala Road, Nagpur where a room was already booked by the applicant. They stayed there for two days and as applicant promised to marry, he established forcible physical relations with her. They had physical relations on multiple occasions during the period of two days. Thereafter, their physical relations continued from time to time at various places including Masoori in Uttarakhand, Agra and Shikohabad, District Firozabad in Uttar Pradesh, etc. Subsequently, applicant stopped conversation with non-applicant no.2 and refused to marry with her saying that his parents are opposed to their marriage. Therefore, FIR is lodged by non-applicant no.2 contending that from the period 23.04.2022 to 10.06.2023, applicant established

physical relations with her on the false promise of marriage. On completion of investigation, charge-sheet was filed and case is numbered as R.C.C. No.3272/2023, pending before 16th Judicial Magistrate First Class, Nagpur.

4. Heard learned Advocate for the applicant, learned APP for non-applicant no.1/State and learned Advocate for non-applicant no.2.

5. Non-applicant no.2 has filed an affidavit dated 04.01.2025 stating that, applicant and non-applicant no.2 have arrived at a compromise and they have settled the dispute outside the Court. Memorandum of Understanding executed between the applicant and non-applicant no.2 is also placed on record. Today, non-applicant no.2 is present in the Court and she is identified by her Advocate. She has filed additional affidavit stating that she had love affair with the applicant and they have visited various places. Since there was refusal on the part of applicant refused to marry her due to pressure of parents, she has lodged FIR in question. She has no objection if the FIR (Annexure-A) is quashed.

6. Perusal of the FIR and investigation papers show that there was love affair between non-applicant no.2 and applicant and physical relations between them were consensual.

7. Taking into consideration the affidavit filed by non-applicant no.2 reiterating the fact that relations between applicant and non-applicant no.2 were consensual and the applicant refused to marry with her due to his parents pressure, in these facts of the present case it cannot be said that applicant gave false promise of marriage to non-applicant no.2 and established physical relations with her. In view of the settlement of dispute between the applicant and non-applicant no.2 and her no objection to quash the FIR, no useful purpose would be served by continuing the prosecution against the applicant. Even if we allow the prosecution to continue, the trial will be resulting into acquittal as non-applicant no.2 is not likely to support the prosecution case hence, it will be futile exercise, which would lead to waste of judicial time and energy. In our opinion, therefore, continuation of prosecution in the present case would be an abuse of process of the law. We are therefore inclined to allow the application.

8. Resultantly, the application is allowed.

9. Crime No.336/2023 registered with Ranapratap Nagar Police Station, Nagpur and the proceedings of R.C.C. No.3272/2023 pending in the Court of 16th Judicial Magistrate First Class, Nagpur are hereby quashed and set aside subject to depositing costs of Rs.20,000/- (Rs.Twenty thousand) with Tiroda Bar Association, Tiroda, District Gondia for its library development within two weeks from the date of uploading this order.

Rule is made absolute in above terms.

(M.W. CHANDWANI, J)

(N.B. SURYAWANSHI, J.)

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