



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

CRIMINAL APPLICATION (APL) NO. 560 OF 2025

APPLICANT : Imran Khan S/o Ajij Khan Pathan,
Aged about : 38 years,
Occ. : Service, Bajoriya Nagar,
Yavatmal, Tq. and Distt. Yavatmal.

VERSUS

NON-APPLICANTS :

1. State of Maharashtra
Through Police Station Officer,
Awadhutwadi, Yavatmal,
Tq. and Distt. Yavatmal.
2. XYZ,
(Details supplied in Sealed
Envelope)

Shri Sameer Khan, Advocate for applicant.
Shri Nikhil Joshi, Additional Public Prosecutor for non-applicant No.1.
Shri Syed Salmaali Syed Jammuali, Advocate for non-applicant No.2.

CORAM: URMILA JOSHI-PHALKE, J.
DATED : 09/03/2026.

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.

2. By this application, applicant is seeking quashing of the FIR in connection with Crime No.1170/2024 registered under Sections 376(2)(n) and 417 of the Indian Penal Code and the consequent proceeding arising out of same bearing Sessions Case No.13/2025.

3. A crime is registered on the basis of report lodged by the non-applicant No.2 on an allegation that she got acquaintance with the present applicant in the year 2021. The present applicant met her. They exchanged their mobile phone numbers with each other and thereafter, friendship was developed between them. The said friendship was subsequently converted into the love affair. It is alleged by her that in the year 2021, the present applicant has taken her at Ghatanji Bypass wherein on the promise of marriage, he has subjected her for the forceful sexual assault and thereafter, on various occasions, there was physical relationship between them. On the basis of the said report, police have registered a crime against the present applicant.

4. After registration of the crime, investigation was carried out. During investigation, victim was referred for the medical examination. Her statement was recorded. The statements of other relevant witnesses were also recorded and after completion of the investigation, the charge sheet was submitted against the present applicant. Hence, this application.

5. During pendency of this application, both applicant and non-applicant No.2 arrived at a settlement. The affidavit of the applicant as well as the non-applicant No.2 is filed on record.

Today, they are present before the Court. They have accepted and agreed the terms and conditions of the said settlement. I have personally verified from the non-applicant No.2 whether she is settling the matter under pressure, duress or coercion to which she has denied the same. She has also accepted the terms and conditions mentioned in the said settlement terms and affidavit which is filed on record.

6. Admittedly, the offences alleged against the present applicant are non-bailable offences. In view of the observations of the Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab and another, reported in 2012(10) SCC 303, wherein the Hon'ble Apex Court has observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled, although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor. In this regard, a specific reference was made to offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the

wrong is basically to the victim but the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable. The High Court may, within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

7. Even on the merits, it reveals that there was acquaintance between the present applicant and non-applicant No.2. The said acquaintance resulted into the friendship and friendship into the love affair. The victim is 32 years old lady initially married but obtained the divorce from her first husband. Thus, she is a grown up married woman and could not be said to have acted under the alleged false promise given by the applicant or under misconception of fact while giving consent to have sexual relationship with the present applicant. It is apparent that the relationship between her and the applicant appears to be consensual in nature. Under Section 90 of IPC, a consent given under the misconception of fact is no consent in the eyes of law

but the misconception of fact has to be in proximity of time to the occurrence and cannot be spread over a period of more than four years.

8. As per the victim, her acquaintance was in the year 2021. The incident of sexual assault on her is also of 2021 and it was continued till 2024. It hardly needs any elaboration that the consent given by the victim was conscious and informed choice made by her after due deliberation. She is a grown up lady and knows the consequences of her act. Thus, the allegations levelled against the present applicant further shows that it is consensual relationship developed between the grown up adults. After knowing the consequences of her act, they entered into the said relationship. This aspect is also considered by the Hon'ble Apex Court in a celebrated judgment of **Promod Suryabhan Pawar Vrs. State of Maharashtra and another, reported in (2019) 9 SCC 608** by considering catena of decisions, it is observed by the Hon'ble Apex Court "to summarize the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two

propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act.”

9. The allegations in the FIR do not on their face indicate that the promise of the present applicant was false. It is apparent that they engaged in a sexual relationship out of love affair between them. Thus, it is a consensual relationship between both of them. Thus, on merits also, the application of the applicant deserves to be allowed. Accordingly, I proceed to pass following order :-

ORDER

- i] The application is allowed.
- ii] The FIR in connection with Crime No.1170/2024 registered under Sections 376(2)(n) and 417 of the IPC and the consequent proceeding arising out of same bearing Sessions Case No.13/2025 is hereby quashed and set aside against the present applicant.
- iii] The application is disposed of.

9. The applications, pending if any, are disposed of accordingly.

[JUDGE]