



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

CRIMINAL APPLICATION (APL) NO.394/2026

1. Vijay Laxman Rotke,
aged 31 Yrs., Occu. Agriculturist.
2. Laxman Sadhuji Rotke,
Aged 47 Yrs., Occu. Agriculturist.
3. Pushpa W/o Laxman Rotke,
Aged 45 Yrs., Occu. Housewife.

All are R/o Shegoan, Post Mukhebardi,
Tah. Bhiwapur, Distt. Nagpur.

... Applicants

- Versus -

1. State of Maharashtra,
through Police Station Officer,
Police Station Bhiwapur,
Nagpur (Rural), Nagpur.
2. Buddhamala Maroti Dhanvijay,
Aged 19 Yrs., Occu. Household,
R/o Shegaon, Post Mukhebardi,
Tah. Bhiwapur, Distt. Nagpur.

... Non-applicants

Mr. Abuzain Tarique Sheikh, Advocate for the Applicants.
Mr. N.B. Jawade, A.P.P for Non-applicant No.1/State.
Mr. Kriti G. Badani, Advocate for Non-applicant No.2.

CORAM: MRS. VRUSHALI V. JOSHI, J.

DATE OF RESERVING THE JUDGMENT: 24.04.2026.

DATE OF PRONOUNCING THE JUDGMENT: 29.04.2026.

JUDGMENT

This is an application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) for quashing the F.I.R., charge-sheet, and Special Case No.533/2022 arising out of Crime No.290/2022, registered for offences punishable under Sections 376, 376(2)(j), and 376(2)(n) of the Indian Penal Code, 1860 (“IPC”); Sections 4, 6, 8, 12, and 17 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”); and Sections 3(2)(va), 3(1)(w)(i), and 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SCST Act”).

2. It is the prosecution’s case that the victim, who was at the time of incident 15 years of age, used to go to school by rickshaw driven by applicant No.1 with her sister and other students. The accused/applicant No.1 proposed her and took her to his house for one day for stay. Thereafter, he dropped her at her grandmother’s house and on next day, he along with his parents went to the house of victim and asked her to stay with them in their house. She willingly went with the applicant No.1 and his family members to his house and stayed there. They had physical relations during her stay at the house of the applicants.

3. It is alleged that at that time, the applicants knew that she belonged to a Scheduled Caste and that she was a minor. Thereafter, applicant No.1 dropped her at her maternal aunt’s house, but her maternal uncle refused to allow her to stay there. She again returned to the applicants’ house and stayed there. Later, applicant

No.1 took her to her paternal aunt's house. On the advice of her paternal aunt, she lodged the complaint, and the crime is registered.

4. The learned Advocate for the applicants submitted that the matter arose out of a love affair between the victim and applicant No.1. After the victim attaining majority, she has performed marriage with applicant No.1 and victim is now 7 months pregnant. There is no dispute between them, and they are living happily together. Therefore, it is prayed that the crime registered against the applicants be quashed and set aside.

5. The learned A.P.P. opposed the application and submitted that the offence is registered under the POCSO Act. Since the victim was minor at the time of the incident, her consent is immaterial. Although they are now married, the sexual relations took place between them when she was a minor. Applicant No.1 knew that she was a minor and also belonged to a Scheduled Caste, yet he committed the offence. Therefore, the crime is rightly registered and the application be rejected.

6. In this case, main issue for determining the applicability of the POCSO Act is the age of the victim at the time of incident. As per the F.I.R. and documents filed on record, she was 15 years of age at the relevant time. On perusal of allegations in the F.I.R., it appears that, though the victim was minor was not having any problem to stay with the applicant No.1 and his family members. There is not a single whisper in the F.I.R. that the applicant No.1 forced her or took her forcibly and gave threats to her or did sexual intercourse on false

promise of marriage. It appears that only because the paternal aunt asked her to lodge the complaint, she has lodged the complaint and the crime is registered.

7. In offence under POCSO Act the F.I.R. cannot be quashed considering the object of the Act. The applicants have relied on the judgments of the Hon'ble Supreme Court and various High Courts where considering this issue, F.I.R. is quashed.

8. In the recent judgment of Ayyub Malik and another v. State of Uttarakhand and another, 2026 SCC OnLine SC 637, the Hon'ble Supreme Court considered the subsequent developments, including that the parties had married, were living together as husband and wife, and had a child from the marriage. The Court held that, in such circumstances, continuing the criminal proceedings would not be proper and would disturb their family life.

This judgment applies to the present case because the victim has no grievance against applicant No.1. She has not made any allegation against him regarding their relationship. She willingly stayed with applicant No.1. At that time, the victim did not have her parents and was staying with her grandmother. Applicant Nos.2 and 3, who are the parents of applicant No.1, went to the victim's house and took her to their house. As the victim and the applicant No.1 was having love affair they had sexual relations during her stay though she was a minor at the relevant time. Now they are married, and the victim is 7 months pregnant. The observations made by the Hon'ble Supreme Court in paragraph 6.1 of the above judgment are as follows:

“6.1 Any litigation brings a kind of botheration for the parties. The uncertainty of the outcome of the litigation always looms large. When it is a criminal case, its pendency becomes burdensome and worrisome. For appellant No.1 as well as appellant No.2, negotiating the criminal proceedings in a court of law, notwithstanding that both are now husband and wife living together, would operate as painful interference in their happy life. The High Court would have done justice to the parties only by quashing the criminal proceedings against appellant No.1 initiated by the complainant-father of appellant No.2.”

9. Here, the parties are husband and wife and are living together happily. In the interest of complete justice, the criminal case against applicant No.1 and his parents should be brought to an end. It is stated that they are living peacefully and that applicant No.1 is taking proper care of non-applicant No.2. This Court hopes that applicant No.1 and his family members will continue to give her proper care and affection.

10. The applicants have also relied on the judgment of the Hon’ble Supreme Court in K. Kirubakaran v. State of Tamil Nadu, 2025 INSC 1272 (SC), where the Court held that in cases involving a consensual relationship, especially where there is a promise of marriage, strict application of penal provisions may cause injustice. The Court observed that the surrounding circumstances, the nature of the relationship, and the later conduct of the parties must be considered. In the present case, the later conduct shows that both parties have married each other, and the victim is now 7 months pregnant.

11. The Bombay High Court in Mohan Maruti Jadhav V/s. State of Maharashtra, Writ Petition No.135/2026, decided on 13.2.2026, quashed the criminal case after noting that the parties had amicably resolved the dispute. In case of Gogulaprabhu V/s. State of Tamil Nadu and another, Crl. O.P (MD) No.4010/2026 (Mad. HC, Madurai Bench, decided on 25.2.2026) the High Court has quashed the criminal proceedings by taking into account the fact that the relationship between the parties was consensual in nature and they had subsequently married. Delhi High Court in Harmeet Singh V/s. State of GNCT of Delhi and Anr., W.P (CRL) 1985/2025 (Del HC, decided on 16.4.2026) has also reiterated that inherent powers of the Court can be exercised to quash the proceedings where dispute is settled. The applicants have relied on the judgment in xxxx V/s. State of Kerala (CRL. M.C. No.11344/2025) (Ker. HC. decided on 16.2.2026), Shalenbor Wahlang and another V/s. State of Meghalaya, 2026 SCC OnLine Megh 152, C528 No.217/2026 (Uttarakhand High Court), Vijay @ Gangu V/s. State of Madhya Pradesh and others, Misc. Criminal Case No.12368/2026 (MP HC, decided on 2.4.2026), Rojalin Rout and another V/s. State of Odisha and another, CRLM No.3460/2023 with connected matters (Ori HC, decided on 22.4.2024).

12. In all the above cases, the Court considered whether it was necessary for the criminal prosecution to continue in case of settlement, the relationship is out of love affair and resulted into marriage.

13. Considering the above observations, and since the victim was present before the Court and stated that she and applicant No.1 are married and that she is now 7 months pregnant, and also considering the allegations in the F.I.R. and the observations made by the Hon'ble Court in the above cases, this Court finds that a case is made out for quashing the F.I.R., charge-sheet, and the criminal proceedings pending before the District Court, Nagpur. Therefore, the application is allowed. Hence, the following order:

ORDER

- i) The F.I.R., charge sheet and the criminal proceedings pending against the applicants before the learned Additional Sessions Judge, Nagpur are hereby quashed and set aside subject to applicants depositing costs of Rs.10,000/- each with the Public Welfare Account maintained with Union Bank of India, High Court Branch, Civil Lines, Nagpur bearing Account No.129712010001014 and IFSC Code UBIN0812978 and producing the receipt thereof on record within three weeks.
- ii) The application is allowed in the above terms and disposed of.

(MRS. VRUSHALI V. JOSHI, J.)