



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

CRIMINAL APPLICATION (APL) No.963 OF 2023

Mukesh Radheshyam Agarwal,
Age 40 years,
Occupation : Business,
R/o. Wadi Amravati Road, Nagpur. : APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Wadi,
Distt. Nagpur.
2. XYZ (Victim), Crime No.27/2023,
Police Station Wadi,
Distt. Nagpur. : NON-APPLICANTS

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Mr. Mohd. Inamul Haque, Advocate for Applicant.
Mr. M.J. Khan, Additional Public Prosecutor for Non-applicant No.1.
Ms. Kirti Wankhede, Advocate for Non-applicant No.2 (Appointed).
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CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 05th DECEMBER, 2025.
PRONOUNCED ON : 19th DECEMBER, 2025.

JUDGMENT : (Per : Nandesh S. Deshpande, J.)

1. Heard. Admit. Heard finally by consent of learned counsel appearing for the parties.
2. The applicant has approached this Court by filing the present application under Section 482 of Indian Penal Code,

quashing and setting aside of the First Information Report bearing Crime No.27/2023 dated 18.01.2023, registered by the Police Station Wadi, Nagpur, for the offences punishable under Sections 376, 376(2)(n), 354 (D), 324 and 506 of the Indian Penal Code.

3. As per the case of non-applicant No.2 and as reflected in the First Information Report dated 18.01.2023, non-applicant No. 2's father was a L.I.C. Agent who had borrowed an amount of approximately Rs.2/- lakhs in the year 2014 from the applicant and subsequently continued to take amounts from the applicant. It is alleged that on 19.02.2018, when the applicant came to collect money from the father of non-applicant No.2, the applicant met non-applicant No.2 for the first time. Subsequently, the applicant called non-applicant No.2 to his shop located in Wadi on pretext of discussing money taken by her father as loan and then committed forcible sexual intercourse with her. It is alleged that non-applicant No.2 was asked to teach the applicant's children on the ground that this would help her family to settle the loan amount and establish corporeal relationship with her at his house as well.

4. It is further alleged that in May 2020, when non-applicant No.2 discovered her pregnancy at Jee Asha Hospital, Dattavadi, the applicant forced her to undergo abortion at the said hospital on 19.05.2020. Again, in April 2022 the applicant again

forced her to undergo abortion through medication from a doctor. Aggrieved by the repeated forcible sexual intercourse, forced terminations of pregnancy, and continued threats, non-applicant No. 2 lodged the First Information Report dated 18.01.2023, which is challenged in the present application.

5. We have heard Mohd. Inamul Haque, learned counsel for the applicant, Mr. M. J. Khan, learned Additional Public Prosecutor for the non-applicant No.1/State and Ms. Alpana Ingolikar and h/f. Ms. Kirti Wankhede, learned counsel for the non-applicant No.2.

6. During the pendency of the present application, the non-applicant No.2 and present applicant filed mutual settlement deed stating that she does not want to pursue the First Information Report. The relevant Paras in the Mutual settlement deed of the non-applicant No.2 is as under :-

4. वरील केस परत घेतल्यावर पक्ष क्रं. 1 हे फेसबुक, व्हॉट्सएप व इतर कोणत्याही प्रकारच्या इलेक्ट्रॉनिक मिडीया व मेसेज वर पक्ष क्रं. 2 ला फालो, पोस्ट किंवा पक्ष क्रं. 2 ची बदनामी होईल असे कोणतेच कृत्य करणार नाहीत.

5. पक्ष क्रं. 2 च्या नातेवाईक, मित्र, मैत्रीणी किंवा इतर कोणत्याही इसमास पक्ष क्रं. 2 बद्दल पक्ष क्रं. 1 हे माहिती देणार नाही किंवा त्यांच्याशी कोणत्याही माध्यमातून ओळखी करणार नाहीत.

6. पक्ष क्रं. 2 ह्या पुढील शिक्षणासाठी, नौकरीसाठी कुठेही इतर शहरात गेल्यावर पक्ष क्रं. 1 हे पक्ष क्रं. 2 चा पाठपुरावा करणार नाहीत, पक्ष क्रं. 2 ची माहिती मिळविण्याचा प्रयत्न करणार नाहीत किंवा पक्ष क्रं. 2 च्या आयुष्यात कधीही कोणत्याही

प्रकारचा हस्तक्षेप करणार नाहीत.

7. पक्ष क्रं. 2 ह्यांचे भविष्यात लग्न जुडले किंवा लग्न झाले तर सासरच्या कोणत्याही व्यक्तिस प्रत्यक्ष किंवा अप्रत्यक्ष भेटण्याचा किंवा ओळखी करण्याचा प्रयत्न पक्ष क्रं. 1 करणार नाहीत. पक्ष क्रं. 2 ची कोणतीही वैयक्तिक व सार्वजनीक माहिती देणार नाहीत.

8. पक्ष क्रं. 2 च्या आई, वडील, भाऊ किंवा इतर नातेवाईकास पक्ष क्रं. 1 हे धमकावणे, शारीरिक व मानसिक त्रास व इतर कोणत्याही प्रकारचे बेकायदेशीर वर्तन करणार नाहीत. तसेच पक्ष क्रं. 2 च्या सामाजिक प्रतिष्ठेला नुकसान होईल असे कोणतेच वर्तन करणार नाही.

7. In view of this fact, vide order dated 04.12.2025 we directed the Registrar (Judicial) to make an inquiry as to the authenticity of the contents of the Mutual Settlement Deed as also the identity of the parties and place the report before us. Accordingly, the Registrar (Judicial) has identified the parties and the contents of the Mutual Settlement Deed. As per the report of the Registrar (Judicial) the applicant and the non-applicant No.2 has confirmed the contents of the Mutual Settlement Deed. The Mutual Settlement Deed of both parties is also filed on record.

8. True it is that the offence punishable under Sections 376, 376(2)(n), 354 (D), 324 of Indian Penal Code, 1860, is not compoundable in nature. However, as enunciated by the Hon'ble Supreme Court in case of **Gian Singh Vs. State of Punjab And Another** reported in (2012) 10 SCC 303, which is subsequently followed in judgment of **Narinder Singh And Others Vs. State of**

Punjab And Another reported in **2014(2) MLJ (Criminal) 365**, it is

held as under :

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines :

“Where the High Court quashes a criminal proceeding having regard to the facts 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. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc. or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavor having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and 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. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

Thereafter, the Court summed up the legal position in the following words: “The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guidelines engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act, or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-

dominatingly civil flavor stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

9. As far as Section 506 of Indian Penal Code is concerned, the very nature of the offence is by far compoundable. Thus, it does not require any cognizance to be taken by this Court as the matter is already settled between parties though above mentioned settlement deed.

10. In the background of the position of law as stated

supra and in view of the fact that the non-applicant No.2 and applicant filed settlement deed the contents of which are verified by the Registrar (Judicial). We are of the view that there is no chance of conviction of the applicant in the present crime and continuance of proceedings against him for the said offence would amount to abuse of process of the Court. In that view of the matter, we pass the following order :

ORDER

- (i) The application is allowed.
- (ii) The First Information Report bearing Crime No.27/2023 dated 18.01.2023, registered by the Police Station Wadi, Nagpur, for the offences punishable under Sections 376, 376(2)(n), 354 (D), 324 and 506 of the Indian Penal Code is quashed and set aside.
- (iii) The application is disposed of.
- (iv) Fees of the appointed counsel be quantified and paid as per rules.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)