

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR**

***BEFORE***

**HON'BLE SHRI JUSTICE ANAND PATHAK**

**ON THE 26<sup>th</sup> OF APRIL, 2024**

**MISC. CRIMINAL CASE No. 16121 of 2024**

**BETWEEN:-**

**NASIR KHAN S/O SHRI MEHMOOD  
KHAN, AGED ABOUT 25 YEARS,  
JANAKTAL BAHODAPUR DISTRICT  
GWALIOR MP (MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI RAVI DWIVEDI - ADVOCATE )***

**AND**

**THE STATE OF MADHYA PRADESH  
INCHARGE POLICE STATION  
1. THROUGH POLICE THANA  
BAHODAPUR DISTRICT GWALIOR MP  
(MADHYA PRADESH)**

**PEEDITA X THROUGH POLICE  
2. STATION BAHODAPUR R/O DISTRICT  
GWALIOR (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI AWADESH SINGH TOMAR - GOVT. ADVOCATE FOR  
RESPONDENT NO.1/STATE )***

***BY MS. KAJAL TUNDELKAR - ADVOCATE FOR RESPONDENT  
NO.2).***

*This application coming on for admission this day, the  
court passed the following:*

**ORDER**

Petitioner is present in person.

Respondent No. 2 (prosecutrix) is present in person.

1. The present petition has been preferred by petitioner under Section 482 of the Code of Criminal Procedure, 1973 for quashment of FIR bearing Crime No.849/2019 registered at Police Station Bahodapur, District Gwalior for the offence punishable under Sections 376(3), 376 (2i), 376 (2) (n) of IPC and Section 5(1) read with 6 of POCSO Act and other consequential proceedings pending in S.T. No.276/2021 before the Court of learned Special Judge, POCSO Act Gwalior.

2. At the outset, petitioner and respondent No. 2/prosecutrix appeared before this Court and expressed their desire to compound the case and settle the matter once and for all. Prosecutrix and petitioner/accused entered into wedlock and blessed with two children. For this purpose, they preferred I.A.No.8492/2024 and I.A. No.8493/2024 seeking permission of this Court to compound the offence.

3. From perusal of facts and circumstances of the case, it appears that FIR was registered on 27.11.2019 at the instance of prosecutrix for offence under Section 376 of IPC. On said complaint, case was registered. Incident was of the year 2019. The statement of prosecutrix under Section 161 of Cr.P.C. was recorded. In her statement, she specifically mentioned the fact that she and accused (petitioner) are in physical and emotional

proximity and both liked each other and wanted to marry. Thereafter, statement under Section 164 of Cr.P.C. was recorded. Charge sheet was filed. Now petitioner and prosecutrix married to each other and prosecutrix is living in her household peacefully.

4. Meanwhile, it appears that it is a case where both married to each other and entered into wedlock and now prosecutrix is living with her husband. Petitioner/accused and respondent No.2/prosecutrix appeared today before this Court and expressed their desire to settle the matter because prosecutrix and petitioner/accused are living as married couple. Therefore, this petition has been preferred under Section 482 of Cr.P.C. for quashment of FIR alongwith all the consequential proceedings of S.T. No.276/2021.

5. Specific query being made by this Court and it was found that both the parties are living as married couple. Petitioner /accused and respondent No.2/prosecutrix are also ready to bury the hatchet, if any.

6. Learned counsel for petitioner as well as respondent No.2 also advanced arguments in support of compounding of the case.

7. Counsel for the respondent/State opposed the prayer. However, could not dispute the facts as submitted.

8. Heard the learned counsel for the parties and perused the documents appended thereto.

9. This is a case where petitioner and respondent No.2 shared emotional and physical proximity. At the instance of prosecutrix case was registered against petitioner but statements under Section 161 and 164 of Cr.P.C. indicate that both the parties shared the proximity by mutual consent. Although, at the relevant point of time, prosecutrix was minor and was at the cusp of attaining majority because her age was 17 years but later on she attained majority and thereafter prosecutrix and accused entered into wedlock.

10. Today, prosecutrix and petitioner/accused appeared before this Court. They expressed their desire to settle the matter because they have no problem if case is compounded in peculiar facts and circumstances. Prosecutrix has two children out of the wedlock with accused.

11. Be that as it may.

12. Fact remains that petitioner and respondent No.2 are married couple and both are living in same household where prosecutrix is living with her two children. It is regular and easy to be retributive but at the same time a Judge has to sublimely feel the pulse of the case. One cannot forget that “Every “F I L E” with same alphabets, contains a “L I F E”. (See : **In Re State of Madhya Pradesh Vs. Pankaj Mishra, 2021 SCC OnLine MP 5480 and Geeta Paliwal and others Vs. Sitaram and others reported as 2023 SCC**

**Online MP 811.)**

13. Here “FILE” before this Court carries not only a “LIFE” but many LIVES.

14. Considering the facts and circumstances of the case I.A.No.8492/2024 and I.A. No.8493/2024 are hereby allowed and parties are permitted to compound the offence.

15. Therefore, this Court under the obtaining facts and circumstances of the case intends to tread on the path of reformatory or atleast other than retributive one because:-

(i) a girl of tender age around (16-17 years) has fallen in love with a boy of 20 years of same vicinity and driven by hormones they shared emotional and physical proximity and moved out of social/legal limits.

(ii) Girl was of consistent view that she shared emotional/physical proximity on her own volition. Her statements under Section 161/164 Cr.P.C. indicates so.

(iii). Petitioner and prosecutrix entered into wedlock and are blessed with two female child in which one is aged about one and half year and another is of only 4 months. Prosecutrix is living peacefully with her husband. In case of any punishment, petitioner may have to go to jail and that would disrupt the family forever.

(iv) Petitioner does not have any previous criminal

background so as to infer any mischief at this juncture. Therefore, keeping this spirit, this Court intends to inject “**L I F E**” into this “**F I L E**” in the interest of justice.

16. Resultantly, the petition is **allowed**. FIR registered at Crime No.849/2019 at Police Station Bahodapura, District Gwalior for the offence punishable under Sections 376(3), 376 (2i), 376 (2) (n) of IPC and Section 5(1) read with 6 of POCSO Act against the petitioner is hereby quashed. All the consequential proceedings flowing out of the said FIR including S.T. No.276/2021 pending before the Court of learned Special Judge (POCSO) Act, Gwalior against the petitioner also stands quashed. Petitioner is set free. But an expectation can certainly be raised by this Court that petitioner/accused and prosecutrix shall live peacefully and would try to attain nuptial bliss so that family and social harmony can be maintained.

17. Petition stands disposed of.

**(ANAND PATHAK)**  
**JUDGE**

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