

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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 18th OF MARCH, 2024

MISC. CRIMINAL CASE No. 10074 of 2024

BETWEEN:-

**ARVIND S/O SHRI RAMESH DAMA, AGED ABOUT 20
YEARS, OCCUPATION: AGRICULTURE VILLAGE
DARJANPADA RAOTI DISTRICT RATLAM
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI GAURAV LAAD, ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
RAOTI, DISTRICT RATLAM (MADHYA
PRADESH)**
- 2. VICTIM X THROUGH P.S. RAOTI, DISTT.
RATLAM (MADHYA PRADESH)**

.....RESPONDENTS

**(BY MS. HARSHLATA SONI, P.L./G.A. AND SHRI ANSHUL
SHRIVASTAVA, ADVOCATE FOR RESPONDENT NO.2.)**

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

ORDER

Heard finally, with the consent of the parties.

2] This petition has been filed by the petitioner/accused under
Section 482 of the Cr.P.C., for quashing the FIR and all the

subsequent proceedings as an FIR was lodged at Crime No.434/2020 at Police Station Raoti, District Ratlam under Sections 363 and 376 of the Indian Penal Code, 1860 and Section 3/4 of the Protection Of Children From Sexual Offences Act, 2012.

3] Admittedly, the prosecutrix has already been examined in the trial Court and has not supported the case of the prosecution, and in the meantime, I.A. No.4348/2024 has been filed by the petitioner and the prosecutrix under Section 320(2) of Cr.P.C. for compounding the offence.

4] Counsel for the petitioner has submitted that although the offence under Section 376 of the IPC and 3/4 of the POCSO Act is non compoundable, however, considering the fact that the prosecutrix has already been examined in the Trial Court, and has not supported the case of the prosecution, and she has also solemnized marriage with the petitioner, which fact has also been verified by the Principal Registrar of this Court as directed earlier, no purpose would be served to further drag the trial, the result of which is a foregone conclusion. Thus, it is submitted that the petition be allowed, and the FIR lodged at Crime No.434/2020 and the subsequent proceedings at S.T. No.121/2022 be quashed. In support of his submissions, Shri Laad has also relied upon a decision rendered by the Supreme Court in the case of *Kapil Gupta vs. State of NCT of Delhi and another* reported as **2022 SCC OnLine SC 1030**.

5] Counsel for the respondent No.2/prosecutrix, Shri Anshul Shrivastava has submitted that he has no objection if the petition is allowed as the prosecutrix herself has already assented to the

quashment of the proceedings as she has already got married to the petitioner.

6] Counsel for the respondent No.1/State, has submitted that appropriate orders may be passed.

7] Heard. Having considered the rival submissions and on perusal of the case-diary as also the documents filed on record and further considering the fact that the prosecutrix has already solemnized marriage with the petitioner and she has also not supported the case of the prosecution in the trial court, this Court is of the considered opinion that no purpose would be served to further waste the valuable time of the trial court in this case, the result of which is a forgone conclusion, and thus, is inclined to allow the present petition as further proceedings against the petitioner before the Trial Court would only be an exercise in futility. Reference in this regard may also be had to the decision rendered by the Supreme Court in the case of *Kapil Gupta (Supra)*. The relevant paras of the same read as under:-

“13.It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14.The Court has further held that it is also relevant to consider as to what is stage of the proceedings. It has been observed that if an

application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

15.The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No. 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

16. In both the cases, though the charge sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since the respondent No. 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.

17.In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

(Emphasis Supplied)

8] In view of the same, the petition stands **allowed**, and the FIR dated 11.11.2022 lodged at Crime No.434 of 2022 at Police Station Raoti, District Ratlam under Sections 363 and 376 of the Indian

Penal Code, 1860 and Section 3/4 of the Protection Of Children From Sexual Offences Act, 2012 as also subsequent proceedings of S.T. No.121/2022 pending against the petitioner, are hereby *quashed*.

9] With the aforesaid, the petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

Bahar