THE HIGH COURT OF MADHYA PRADESH
MCRC 34068 of 2019
Nitesh Raghuvanshi vs. State of MP and Anr.

Gwalior, Dated :28/11/2019

Shri Sushil Kumar Goswami, counsel for the applicant.

Shri R.K.Upadhyay, Public Prosecutor for the respondent No.1/ State.

This petition under Section 482 of CrPC has been filed for quashment of FIR in Crime No.377 of 2018 registered at Police Station Basoda City, District Vidisha for offence under Section 376(2)(n) of IPC and under Section 5L/6 of Protection of Children from Sexual Offences Act, 2012 [in short " POCSO Act"].

(2) The necessary facts for disposal of the present petition in short are that on 24/07/2018, a FIR was lodged by the prosecutrix/ complainant that she is the resident of Village Pachama, Basoda, District Vidisha and in the year 2017 she was studying in Class-IX and she used to go to the school by walking. The applicant was working in ICICI Bank and used to visit her village in the house of his relative Bhavani Singh Raghuvanshi, who is resident of her village Pachama, Basoda. By the passage of time, she fell in love and the applicant used to have physical relations with her on the pretext that he would marry her and thereafter, he did not marry her, therefore, on her report, the applicant was arrested on 24/03/2017. Thereafter, the applicant pursued the complainant to change her version on the pretext that he would marry her and thereafter, relying on the assurance given by the applicant, the complainant changed her statement. The applicant was

released on bail and he again had physical relations with her. Thereafter, on 27/06/2018, she went to Basoda in order to attend the marriage of one Raju Kushwah, where the applicant had physical relations with her for the last time on the pretext that he would marry her. Thus, it was alleged by the complainant that she is minor and because of continuous physical relations developed by the applicant, she has become pregnant but now, the applicant has refused to marry her. On this allegation, the FIR for offence under Section 376(2)(n) of IPC and under Section 5L/6 of POCSO Act was registered in Crime No.377 of 2018 by police station Basoda City, District Vidisha.

(3) It is submitted by the Counsel for the applicant that the FIR has been lodged on the false allegations. On 18/03/2019, the applicant has married the complainant and now, they are living their life peacefully and accordingly, the FIR be quashed. In support of his contention, the applicant has filed the copy of marriage certificate issued by Arya Samaj Mandir, Bhagirathpura, Indore, which indicates that on 18/03/2019, the marriage of the applicant with the complainant has been performed. It is further submitted that at present also, the complainant is pregnant and in case, if the FIR is not quashed, then the life of the applicant as well as of the complainant would be ruined and as the applicant has married the complainant, therefore, there is no possibility of his conviction and, therefore, the FIR be quashed.

(4) *Per contra,* it is submitted by the Counsel for the State that the date

of birth of the prosecutrix is 01/02/2001 and the FIR was lodged on 24/07/2018. Thus, even on the date of lodging of FIR, the prosecutrix was minor. Further, the allegations are that from the year 2017, the applicant was continuously having physical relations with the prosecutrix on the pretext of marriage and on earlier occasion also, the applicant was tried for offence under Section 376 of IPC. It is further submitted that after the FIR was lodged, the prosecutrix had given birth to a child who died after two days. It is further submitted that the applicant has married the prosecutrix, cannot be a ground to quash the proceedings. It is further submitted that the charge sheet has been filed against the applicant under Section 299 of CrPC and he is still absconding.

(5) Heard the learned Counsel for the parties.

(6) According to the prosecution case, the FIR was lodged by the prosecutrix on 24/07/2018 and as per the mark sheet of Class-IX of the prosecutrix, the date of birth of the prosecutrix is 01/02/2001. Thus, even on the date of lodging of FIR, the prosecutrix was minor. On the date of lodging of FIR, the prosecutrix was pregnant and according to the case diary, on 19/12/2018, the prosecutrix had given birth to a child who died during treatment on 21/12/2018 and the cause of death was due to asphyxia as a result of premature lungs. The blood sample of the prosecutrix as well as body parts of the child have also been sent for DNA Test. Thus, it is clear that the allegations are that for the last time, the applicant had committed

rape on the prosecutrix on 27/06/2018 and because of physical relations developed by the applicant with the prosecutrix, she became pregnant and gave birth to a child on 19/12/2018, who died on 22/12/2018. It is the contention of the applicant that he has married the prosecutrix on 18/03/2019. Even if the contention of the applicant with regard to marriage with the prosecutrix is considered, this Court is of the considered opinion that it is not a good ground for quashment of FIR.

(7) The Supreme Court in the case of **State of M.P. vs. Madanlal,** reported in **(2015) 7 SCC 681,** has held as under :

> **"18.** The aforesaid view was expressed while dealing with the imposition of sentence. We would like to clearly state that in a case of rape or attempt to rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are the offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the "purest treasure", is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error.
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> **19.** We are compelled to say so as such an attitude reflects lack of sensibility towards the dignity, the *élan vital*, of a woman. Any kind of liberal approach or thought of

mediation in this regard is thoroughly and completely sans legal permissibility. It has to be kept in mind, as has been held in *Shyam Narain* v. *State (NCT of Delhi) (2013) 7 SCC 77* that: (SCC pp. 88-89, para 27)

> "*27.* Respect for reputation of women in the society shows the basic civility of a civilised society. No member of society can afford to conceive the idea that he can create a hollow in the honour of a woman. Such thinking is not only lamentable but also deplorable. It would not be an exaggeration to say that the thought of sullying the physical frame of a woman is the demolition of the accepted civilised norm i.e. 'physical morality'. In such a sphere, impetuosity has no room. The youthful excitement has no place. It should be paramount in everyone's mind that, on the one hand, society as a whole cannot preach from the pulpit about social, economic and political equality of the sexes and, on the other, some perverted members of the same society dehumanise the woman by attacking her body and ruining her chastity. It is an assault on the individuality and inherent dignity of a woman with the mindset that she should be elegantly servile to men."

20. At this juncture, we are obliged to refer to two authorities, namely, *Baldev Singh* v. *State of Punjab (2011) 13 SCC 705* and *Ravindra* v. *State of M.P. (2015) 4 SCC 491 Baldev Singh* was considered by the three-Judge Bench in *Shimbhu (2014) 13 SCC 318* and in that case it has been stated that: (*Shimbhu case*, SCC pp. 327-28, para 18)

> "*18.1.* In *Baldev Singh* v. *State of Punjab* though the courts below awarded a sentence of ten years, taking note of the facts that the occurrence was 14 years old, the appellants therein had undergone about 3½ years of imprisonment, the prosecutrix and the appellants married (not to each other) and entered into a compromise, this Court, while considering peculiar circumstances, reduced the sentence to the period already undergone, but enhanced the fine from Rs 1000 to Rs 50,000. In the light of a series of decisions, taking contrary view, we hold that the said decision in *Baldev Singh* v. *State of Punjab* cannot be cited as a precedent and it should be confined to that case."

> **21.** Recently, in *Ravindra*, a two-Judge Bench taking note of the fact that there was a compromise has opined thus: (SCC p. 497, paras 17-18)
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> > "*17.* This Court has in *Baldev Singh* v. *State of Punjab*, invoked the proviso to Section 376(2) IPC on the consideration that the case was an old one. The facts of the above case also state that there was compromise entered into between the parties.
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> > *18.* In light of the discussion in the foregoing paragraphs, we are of the opinion that the case of the appellant is a fit case for invoking the proviso to Section 376(2) IPC for awarding lesser sentence, as the incident is 20 years old and the fact that the parties are married and have entered into a compromise, are the adequate and special reasons. Therefore, although we uphold the conviction of the appellant but reduce the sentence to the period already undergone by the appellant. The appeal is disposed of accordingly."
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> 22ए Placing reliance on *Shimbhu*, we also say that the judgments in *Baldev Singh* and *Ravindra* have to be confined to the facts of the said cases and are not to be regarded as binding precedents."
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> (underline supplied)

The Supreme Court in the case of **State of M.P. vs. Laxmi Narayan,** reported in **(2019) 5 SCC 688** has held as under :-

> **"11.** At the outset, it is required to be noted that in the present appeals, the High Court in exercise of its powers under Section 482 CrPC has quashed the FIR for the offences under Sections 307 and 34 IPC solely on the basis of a compromise between the complainant and the accused. That in view of the compromise and the stand taken by the complainant, considering the decision of this Court in *Shiji vs. Radhika (2011) 10 SCC 705*, the High Court has observed that there is no chance of recording conviction against the accused persons and the entire exercise of a trial would be exercise in futility, the High Court has quashed the FIR.
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> **11.1.** However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 CrPC. From the impugned judgment and order, it appears that the High Court has not at all considered the

relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgment and order passed by the High Court, it appears that the High Court has mechanically quashed the FIR, in exercise of its powers under Section 482 CrPC. The High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in *State of Maharashtra* v. *Vikram Anantrai Doshi (2014) 15 SCC 29*, the Court's principal duty, while exercising the powers under Section 482 CrPC to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence. In the case at hand, the High Court has not at all taken pains to scrutinise the entire conspectus of facts in proper perspective and has quashed the criminal proceedings mechanically. Even, the quashing of the FIR by the High Court in the present case for the offences under Sections 307 and 34 IPC, and that too in exercise of powers under Section 482 CrPC is just contrary to the law laid down by this Court in a catena of decisions."

The Supreme Court in the case of **Parbatbhai Aahir v. State of Gujarat,** reported in **(2017) 9 SCC 641** has held as under :-

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482

is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (*i*) to secure the ends of justice, or (*ii*) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

> 16ᵟ10ᵟ There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

(8) Thus, it is clear that where the accused is facing trial for the offence of rape, then conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman. When a woman is violated, then "purest treasure" is lost. The dignity of a woman is an essential part of her non-perishable and immortal self and no one should ever think of painting it in clay. The honour of a woman cannot be put to stake by compromise or settlement. **The Supreme Court in the case of Madanlal (supra) has further held that "sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error or to put it differently, it would be in the realm of a sanctuary of error". Thus, it is clear that even if the accused come forward with the case that now since he has married the prosecutrix, therefore, the prosecution should be quashed, then such prayer cannot be accepted under any**

circumstances.

(9) Further, Delhi High Court in the case of **Vikash Kumar @ Sonu Vs. The State by** order dated **1-8-2017** passed in **Crl.M.C. No. 2763 of 2017** has held as under :-

> **"20.** The two decisions relied upon by learned Senior Advocate for the petitioner in Mr.Manteshwar Hanumantrao Kattimani Vs. State of Maharashtra and Anr. (Supra) and Jaya D.Ovhal Vs. State of Maharashtra (Supra) are not binding precedents. Otherwise also, while considering prayer of the petitioner for quashing the FIR and consequential proceedings emanating therefrom, guiding principles are laid down in Gian Singh's case (Supra).
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> "21. The petitioner could not seek any assistance by placing reliance on Deeapk Gulati vs. State of Haryana (Supra) as it was an appeal against conviction for committing the offence punishable under Section 365/366/376IPC wherein by giving benefit of doubt, the appellant/accused was acquitted.
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> 22. It would also be apposite to mention here that in a decision dated 3rd August, 2015 by Co-ordinate Bench of this Court in Crl.M.C. No.1824/2015, the petition under Section 482 CrPC filed by the petitioner for quashing of FIR registered under Section 376 IPC on the ground that complainant has got married to the petitioner, has been dismissed by passing the following order:-
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> "This is a petition seeking quashing of the FIR No.163/2015 registered under Section 376 of the IPC at the behest of respondent No.2. Respondent No.2 is present. She is an adult stated to be 27 years of age. Her presence has been identified by the Investigating Officer. She states that she in fact wishes to marry the petitioner and the FIR has been got registered under a misunderstanding. She does not wish that any action should be taken against the petitioner. The petitioner is stated to be a Government servant.

> In view of this factual matrix, the petitioner be not arrested till the time when the statement of the prosecutrix is recorded before the Sessions Judge.
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> Learned Public Prosecutor for the State under instructions from the Investigating Officer states that challan is almost ready and shall be filed positively within two weeks. The trial Judge will endeavour to record the statement of the prosecutrix as early as possible.
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> This Court is otherwise not inclined to entertain a quashing petition under Section 376 of IPC in view of the judgment of the Apex Court reported as 10 SCC 303 Gian Singh Vs. State of Punjab and Anr., With these directions, petition disposed of.
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> Order dasti under the signatures of the Court Master."
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> 23.The above order passed in Crl.M.C. No.1824/2015 declining the prayer for quashing of the criminal proceedings despite the fact that the parties got married, was challenged by filing a Special Leave to Appeal No...../2016 (Crl.M.P. No.1865/2016) before the Supreme Court. The SLP also stands dismissed vide order dated 8th February, 2016."
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> (underline applied)

The Supreme Court in the case of **Shimbhu vs. State of Haryana,** reported in **(2014) 13 SCC 318 : (2014) 5 SCC (Cri) 651,** has held as under :-

> "**20.** Further, a compromise entered into between the parties cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the court cannot always be

> assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurized by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise. In fact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurize her for a compromise. So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at between the parties in rape cases to be a ground for the court to exercise the discretionary power under the proviso of Section 376(2) IPC.
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> **21.** It is imperative to mention that the legislature through the Criminal Law (Amendment) Act, 2013 has deleted this proviso in the wake of increasing crimes against women. Though, the said amendment will not come in the way of exercising discretion in this case, on perusal of the above legislative provision and catena of cases on the issue, we feel that the present case fails to fall within the ambit of exceptional case where the Court shall use its extraordinary discretion to reduce the period of sentence than the minimum prescribed."

(10) It is submitted by the counsel for the applicant that since the applicant has married the prosecutrix, therefore, there is no possibility of his conviction. The submission made by the counsel for the applicant is misconceived and is hereby **rejected.**

(11) The Supreme Court in the case of **Hemudan Nanbha Gadhvi vs. State of Gujarat** passed vide order dated 28th September, 2018 **in Criminal Appeal No.913 of 2016** has held as under:-

> **" 10.** It would indeed be a travesty of justice in the peculiar facts of the present case if the appellant were to be acquitted merely because the prosecutrix turned hostile and failed to identify the appellant in the dock, in view of the other overwhelming evidence available. In **Iqbal vs. State of**

U.P., 2015 (6) SCC 623, it was observed as follows:

> "15. Evidence of identification of the miscreants in the test identification parade is not a substantive evidence. Conviction cannot be based solely on the identity of the dacoits by the witnesses in the test identification parade. The prosecution has to adduce substantive evidence by establishing incriminating evidence connecting the accused with the crime, like recovery of articles which are the subject matter of dacoity and the alleged weapons used in the commission of the offence."

11. The corroboration of the identification in T.I.P is to be found in the medical report of the prosecutrix considered in conjunction with the semen found on the clothes of the prosecutrix and the appellant belonging to the Group B of the appellant. The vaginal smear and vaginal swab have also confirmed the presence of semen. A close analysis of the facts and circumstances of the case, and the nature of the evidence available unequivocally establishes the appellant as the perpetrator of sexual assault on the prosecutrix. The serologist report was an expert opinion under Section 45 of the Evidence Act,1872 and was therefore admissible in evidence without being marked an exhibit formally or having to be proved by oral evidence.

12. The contention on behalf of the appellant that the serological report was not put to him by the court under Section 313 Cr. P.C. and therefore, he has been prejudiced in his defence, has been raised for the first time before this court. The serological report being available, it was a failure on the part of the trial court to bring it to the attention of the appellant. The prosecution cannot be said to be guilty of not adducing or suppressing any evidence. In view of the nature of the evidence available in the present case, as discussed hereinbefore, we are of the opinion that no prejudice can be said to have been caused to the appellant for that reason, as held in **Nar Singh vs. State of Haryana**, (2015) 1 SCC 496:

> "32…....When there is omission to put material evidence to the accused in the course of examination under Section 313 CrPC, the prosecution is not guilty of not adducing or suppressing such evidence; it is only the failure on the part of the learned trial court. The victim of the offence

> or the accused should not suffer for laches or omission of the court. Criminal justice is not one-sided. It has many facets and we have to draw a balance between conflicting rights and duties.
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> 33.Coming to the facts of this case, the FSL report (Ext. P-12) was relied upon both by the trial court as well as by the High Court. The objection as to the defective Section 313 CrPC statement has not been raised in the trial court or in the High Court and the omission to put the question under Section 313 CrPC, and prejudice caused to the accused is raised before this Court for the first time. It was brought to our notice that the appellant is in custody for about eight years. While the right of the accused to speedy trial is a valuable one, the Court has to subserve the interest of justice keeping in view the right of the victim's family and society at large."

(12) Thus, it is clear that even if the prosecutrix turns hostile but still the accused can be convicted on the basis of scientific and other circumstantial evidence. Thus, it cannot be said that in case if the prosecutrix turns hostile, then there is no possibility of conviction of the accused at all.

(13) The Supreme Court in the case of **Satish Kumar Jayanti Lal Dabgar Vs. State of Gujarat** reported in **(2015) 7 SCC 359** has held as under :-

> **9.** The questions formulated at Sl. Nos. (1) to (4) above were decided in the affirmative. The discussion in the judgment reveals that it was an admitted case that the victim and the accused were from the same community and they both had gone out of station together. It was also established on record that there was physical relationship between them at different places and at different times and marriage was also performed on 9-3-2003 at Unza which was duly registered in the Office of the Marriage Registrar. However, the primary defence of the appellant was that the prosecutrix was major; she accompanied the appellant willingly and entered into

> physical relationship as well as matrimonial alliance out of her free will, desire and consent. Therefore, the most important question before the trial court, on which the fate of the case hinged, was the age of the victim from which it could be discerned as to whether she was major on the date of the incident or not.
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> **15.** The legislature has introduced the aforesaid provision with sound rationale and there is an important objective behind such a provision. It is considered that a minor is incapable of thinking rationally and giving any consent. For this reason, whether it is civil law or criminal law, the consent of a minor is not treated as valid consent. Here the provision is concerning a girl child who is not only minor but less than 16 years of age. A minor girl can be easily lured into giving consent for such an act without understanding the implications thereof. Such a consent, therefore, is treated as not an informed consent given after understanding the pros and cons as well as consequences of the intended action. Therefore, as a necessary corollary, duty is cast on the other person in not taking advantage of the so-called consent given by a girl who is less than 16 years of age. Even when there is a consent of a girl below 16 years, the other partner in the sexual act is treated as criminal who has committed the offence of rape. The law leaves no choice to him and he cannot plead that the act was consensual. A fortiori, the so-called consent of the prosecutrix below 16 years of age cannot be treated as mitigating circumstance.

Further, this Court by order dated 20-9-2019 passed in the case of **Arif Khan Vs. State of MP & Anr. (MCRC 39588/2019) Gwalior** has held as under :

> "So far as the order passed by the Coordinate Bench of this Court in the case **Pankaj Parmar(supra)** is concerned,it has not taken note of the judgments passed by the Supreme Court in the case of **Madanlal (supra), Laxmi Narayan (supra), Shimbhu (supra)** as well as the order passed by Supreme Court and the Delhi High Court in the case of **Vikash Kumar @ Sonu (supra).**

> The Coordinate Bench of this Court has also not taken note of the fact that the POCSO Act, 2012 is a "Special Act" and thus, in the light of the judgments passed by the Supreme Court in the case of **Gian Singh (supra)** and **Narinder Singh (supra),** the compromise cannot be accepted where the accused is facing trial for offence punishable under the Special Act. The Coordinate Bench of this Court has also not taken note of the provisions of Sections 375 Sixthly of IPC which provides that sexual intercourse with or without consent of a girl below 18 years of age would be **''rape''**. Thus, when the consent of minor prosecutrix is immaterial at the time of commission of offence, then under no circumstances, her consent would become relevant for the purpose of compromise.
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> Thus, with great respect, it is held that the order passed by the Coordinate Bench of this Court in the case of **Pankaj Parmar (supra)** has rendered *per incuriam* as the above-mentioned judgments and aspects have not been taken note'.

(14) If the facts of this case are considered, then it is clear that earlier also, the applicant was arrested for committing rape on the prosecutrix and again he succeeded in persuading the prosecutrix that he would marry her. But after his release, he did not fulfil his promise, and again indulged in physical relations on the pretext of marriage. Even when the prosecutrix became pregnant, he did not marry her. It is also not out of place to mention again that the prosecutrix was minor, therefore, her consent was immaterial. Thus, it is clear that the applicant, had all the time, exploited the prosecutrix. Therefore, in the light of the observations made by the Supreme Court in the case of **Madanlal (Supra),** it is clear that in fact the marriage with the prosecutrix appears to be an eyewash to pressurize the prosecutrix to once again enter into an agreement.

(15) Furthermore, the charge sheet has been filed against the applicant and he is still absconding. Under these circumstances, this Court is of the considered opinion that no case is made out warranting quashment of FIR in Crime No.377 of 2018 registered at Police Station Basoda City, District Vidisha for offence under Section 376(2)(n) of IPC and under Section 5L/6 of POCSO Act.

(16) Accordingly, this petition fails and is **hereby dismissed.**

(G.S. Ahluwalia)
Judge

MKB

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