



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 9th OF APRIL, 2025

MISC. CRIMINAL CASE No. 14994 of 2025

DEEPAK GAUD

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Rohit Jagwani – Advocate for applicant.

Shri Ajay Kumar Nirankari – Public Prosecutor for respondent No.1 to 3/State.

Shri Jitendra Dohare – Advocate for respondents No.4 and 5.

ORDER

This application, under Section 528 of B.N.S.S., 2023 has been filed for quashment of FIR in Crime No.25/2025 registered at Police Station Girwai, District Gwalior (M.P.) for the offence punishable under Sections 137(2), 96, 64(2)(M) of B.N.S., 2023 read with Section 5L/6 of POCSO Act, 2012 as well as subsequent criminal proceedings in Case No.43/2025 (SC), on the basis of compromise.

2. The facts necessary for disposal of present application, in short, are that a *Gum Insaan* report was lodged that prosecutrix who is minor is missing. Prosecutrix was recovered. Her statement under Section 180 of BNSS was recorded who had stated that on 30.01.2025 she left her house and went to Railway Station along with applicant and from where they went to Sangli



(Maharashtra) and took a room on rent where applicant had physical relationship with her on multiple occasions.

3. It is submitted that now applicant and prosecutrix have performed marriage in Arya Samaj Mandir and therefore, the FIR as well as criminal prosecution be quashed on the basis of compromise.

4. Heard learned counsel for the parties.

5. As per the DNA test report, the DNA profile of applicant was found in the undergarment and pubic hair of the prosecutrix. If applicant was honest towards respondent, then he should have performed marriage in accordance with Hindu rites and rituals or in accordance with customs. Why marriage was performed in Arya Samaj Sansthan, specifically when neither applicant nor prosecutrix is Arya Samaji.

6. In this case, allegations are that a minor prosecutrix was kidnapped. In the light of judgment of Supreme Court in the case of **Anversinh @ Kiransinh Fatesinh Zala Vs. State of Gujarat** reported in (2021) 3 SCC 12, it is clear that if the minor girl has left her house on the enticement of accused, then it cannot be said that she has left her house on her own. The allegations are that during minority of the prosecutrix she was raped on multiple occasions.

7. Under these circumstances, this Court is of considered opinion that allegations are heinous and against the society and thus FIR and criminal prosecution cannot be quashed on the basis of compromise.

8. Accordingly, application fails and is hereby *dismissed*.

(G. S. AHLUWALIA)
JUDGE