

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

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 7<sup>th</sup> OF NOVEMBER, 2023**

**WRIT PETITION No. 27218 of 2023**

**BETWEEN:-**

**SUNIL DIXIT S/O BABULAL DIXIT, AGED  
ABOUT 51 YEARS, R/O 80-A SUDARSHAN  
NAGAR SUDAMA NAGAR INDORE (MADHYA  
PRADESH)**

**SATISH DIXIT S/O BABULAL DIXIT, AGED  
ABOUT 54 YEARS, R/O 80-A SUDARSHAN  
NAGAR SUDAMA NAGAR INDORE (MADHYA  
PRADESH)**

**POOJA JOSHI @ RANI SHARMA W/O SANJAY  
JOSHI 401 SNEHLATAGANJ VALLABH NAGAR  
INDORE (MADHYA PRADESH)**

**.....PETITIONERS**

**(SHRI S.K. VYAS, SENIOR ADVOCATE WITH SHRI ADITYA GOYAL, AD-  
VOCATE)**

**AND**

**THE STATE OF MADHYA PRADESH STATION  
HOUSE OFFICER THROUGH POLICE STA-  
TION MAHATMA GANDHI ROAD INDORE  
(MADHYA PRADESH)**

**VICTIM X THROUGH P.S. MAHATMA GANDHI  
INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

**(MS. HARSHLATA SONI, P.L./G.A. AND SHRI MANOJ KUMAR GHODE,  
ADVOCATE FOR COMPLAINANT)**

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

**ORDER**

Heard finally.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking quashment of the FIR lodged at Crime No.424/2023 dated 07.10.2023, registered at Police Station M.G. Road, Indore under Sections 376(2)(f), 328, 384 and 109 of the Indian Penal Code, 1860 and Section 5/6 of the Prevention of Children from Sexual Offences Act, 2012.

3] This petition has been filed on the ground that there was some misunderstanding between the petitioners and the victim, which has led to filing of the FIR and even according to the FIR, the incident took place in the year 2014 – 2015, and she was also subjected to abortion many a time, according to the FIR.

4] Senior counsel for the petitioners has submitted that there is absolutely nothing on record to suggest that the victim ever underwent any abortion. It is also submitted that there was some monetary dispute between the parties regarding which, two cheques of Rs.5 lakhs each were also issued by the prosecutrix to the petitioner No.1 on 03.09.2023 and 08.09.2023, and as both these cheques were dishonoured, when the victim came to know about it, she has lodged the FIR on 17.10.2023 alleging rape and blackmail since 2014-2015. Counsel has submitted that presently, even the charge-sheet has not been filed and the case has not progressed at all and in such circumstances, when the victim prosecutrix is also willing to settle the matter, the application can be allowed. Her no objection and reply are also placed on record.

5] In support of his submissions, Senior counsel for the petitioners has also relied upon decisions rendered by the Supreme Court in the case of ***Kapil Gupta vs. State of NCT of Delhi and another*** reported in 2022 SCC OnLine SC 1030, as also the decision rendered by the High Court of Madhya Pradesh in **M.Cr.C. No.12512/2018** dated **06.12.2018 (Anil Jatav Vs. State of Madhya Pradesh & Anr.)**.

6] The victim is also present in the Court and when a query was made to her by this Court, she has stated that she has no objection, but she has also stated that the petitioners shall give it in writing that they would not take any action against her and would not claim the amount of Rs.10 lakhs, which is mentioned in the cheque.

6.1] In rebuttal, Shri Vyas has submitted that the petitioners give an undertaking that they would not proceed against the prosecutrix or her family members in respect of the aforesaid cheques.

7] Counsel appearing for the respondent No.2/victim has also submitted that since both the parties belong to the same family, the petition may be allowed.

8] Counsel for the respondent/State, on the other hand, has opposed the prayer.

9] Heard. So far quashing of the FIR in the case involving s.376 of IPC is concerned, it has been held by the Supreme Court in the case of ***Kapil Gupta*** (supra) has held 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)*

10] On the anvil of the aforesaid dictum of the Supreme Court, having considered rival submissions and on perusal of the documents filed on record, as also taking note of the consent of the prosecutrix, who is present in person, this Court is inclined to allow this petition as the accused persons belong to one and the same family as the prosecutrix happens to be the daughter of the sister of the wife of the petitioner No.1 and counsel for the petitioner has also submitted that they would not take any coercive action against the prosecutrix as all the matters between them have been settled.

11] In the present case, it is also found that at time when the petitioner first allegedly raped the prosecutrix, she was a minor, however, the FIR itself has been lodged after a period of 9 years and even as per the FIR, the age of the prosecutrix is 26 years. Thus, it cannot be said that the prosecutrix is not aware of the facts and circumstances of the case or that she has not given her consent consciously. In view of the same, since the case is at its initial stage, and even the charge sheet has not been filed, this Court is inclined to allow the present petition.

12] Accordingly, writ petition is hereby allowed and the FIR lodged against the petitioners at Crime No.424/2023, registered at Police Station M.G. Road, Indore under Sections 376(2)(f), 328, 384 and 109 of the Indian Penal Code, 1860 and Section 5/6 of the Prevention of

Children from Sexual Offences Act, 2012 and the subsequent proceedings initiated against them are hereby **quashed**.

**(SUBODH ABHYANKAR)**  
**JUDGE**

**Bahar**