

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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 30th OF APRIL, 2024

MISC. CRIMINAL CASE No. 10976 of 2024

BETWEEN:-

1. SUBHAM S/O SATISH VERMA
OCCUPATION: LABOR R/O 161 SUBHASH
CHOWK IMLI BAZAR INDORE (MADHYA
PRADESH)
2. REKHABAI W/O SATISH RAYKVAR
OCCUPATION: LABOUR 161, SUBHASH
MARG, IMLI BAZAR, INDORE (MADHYA
PRADESH)

.....PETITIONERS

(BY SHRI SACHIN PARMAR – ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH
POLICE STATION SADAR BAZAR, INDORE
(MADHYA PRADESH)
2. PROSECUTRIX THROUGH P.S. SADAR
BAZAR INDORE (MADHYA PRADESH)

.....RESPONDENTS

*(BY MS. HARSHLATA SONI– G.A./P.L. FOR RESPONDENT NO.1/STATE
AND SHRI NITIN PARASHAR – ADVOCATE FOR RESPONDENT NO.2;
PROSECUTRIX IS PRESENT IN PERSON)*

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

ORDER

- 1] Heard finally, with the consent of the parties.
- 2] This petition has been filed under Section 482 of Cr.P.C. for quashing the FIR, charge-sheet and the subsequent proceedings in Special Case No.343 of 2023 against the petitioners arising out of Crime No.270 of 2023 for offences punishable under Sections 376(2)(n), 506, 323, 344 and 34 of IPC and Sections 3, 4, 5 (L) and 6 of the Protection of Children from Sexual Offences Act, 2012 pending in the Court of Special Judge, Indore.
- 3] In brief, the facts of the case are that the FIR in the present case was lodged on 03.12.2023, by the prosecutrix aged around 16 years in respect of the offence of rape, which was committed on her from 01.08.2019 to 25.11.2023, and she was also forced to marry the petitioner No.1 Subham Verma in the presence of his mother Rekhabai, petitioner No.2. As a result of this incident, the prosecutrix also gave birth to a girl child on 13.11.2021, and after the birth of the child, she was also harassed by the petitioners.
- 4] Counsel for the petitioners has submitted that although the case is pending before the trial Court, however, the prosecutrix has not been examined in the trial Court and in fact she was a consenting party as she also gave birth to a female child, but while she was residing with the petitioners, she was forced to lodge the case under the pressure of her family members, who were bent upon to marry her to some other person of their choice, when she was only 14 years.

5] In support of his submission, counsel for the petitioner has also relied upon certain decisions rendered by this Court in the cases of **Arvind Vs. The State of M.P. and another** passed in **M.Cr.C. No.10074 of 2024 dated 18.03.2024** and **Vicky Vs. The State of M.P. and another** passed in **M.Cr.C. No.1224 of 2024 dated 19.02.2024**.

6] Counsel for the State, on the other hand, opposed the prayer.

7] Counsel appearing for the prosecutrix has submitted that the prosecutrix, who is also present in the Court, has no objection if the petition is allowed and the FIR is quashed at this stage.

8] Heard counsel for the parties and perused the record.

9] The prosecutrix is also present in the Court along with her minor daughter, and on a query made by this Court, she has confirmed that she does not wish to prosecute the matter any further as she has already got married to the petitioner No.1 on her own accord and is presently residing in the house of the applicant.

10] From the record, it is apparent that the prosecutrix, who was allegedly 14 years of old, ran away from her house as she was being forced by her parents, who are her uncle and aunt, as her father and mother are the residents of U.P., to marry some person of their choice. It is alleged in the FIR that the prosecutrix was kept by the petitioners in their house, where it is alleged that she was raped by the petitioner No.1 with the connivance of his mother the petitioner no.2.

11] It is also found that the date of birth of the prosecutrix is 16.05.2005 as per her Adhar Card and school certificate, and the

prosecutrix has resided with the accused persons since 2019, and also gave birth to a girl child on 13.11.2021, whereas the FIR has been lodged on 03.12.2023. In the considered opinion of this court, the said chronology clearly demonstrates that the prosecutrix might be a consenting party as the FIR appears to have been lodged after around four years, however, on perusal of the MLC, it is found that the prosecutrix has also suffered various injuries in the form of cut marks, scars, and even an injury which is caused by a sword on her forearm which also corroborates with her statement u/s.164 of Cr.P.C., thus, it is not a simple case of prosecutrix running away with the accused on her own volition.

12] So far as the compounding of offences involving charges of rape are concerned, the Supreme Court in the case of *Kapil Gupta vs. State of NCT of Delhi and another* reported as *2022 SCC OnLine SC 1030* has held as :-

“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)

13] It is true that the aforesaid decision lays down that an offence of rape can also be compounded under certain circumstances, and indeed, it has also been relied upon by this court in other cases as well, to quash the FIR, but under the present facts and circumstances of the case, as narrated above, coupled with the fact that there are five

other criminal cases registered against the petitioner No.1, this court does not find it to be a fit case to exercise its discretion to quash the FIR, as this court is of the considered opinion that it might be a case of prosecutrix suffering from Stockholm syndrome, hence the testimony of the doctor who has prepared the MLC of the prosecutrix, in which various injuries have been found on the person of the prosecutrix, as also that of the prosecutrix might bring some truth out, even if the prosecutrix turns hostile.

14] Thus, no case for interference is made out and the petition being devoid of merits is hereby *dismissed*.

15] So far as the decisions relied upon by the counsel for the petitioner in the cases of **Arvind v. The State of M.P. and another** and **Vicky Vs. The State of M.P. and another** (supra) are concerned, the same are distinguishable on facts.

(SUBODH ABHYANKAR)
JUDGE

Pankaj