



MCRC No.37971-2024

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

BEFORE

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 9th OF JULY, 2025**

MISC. CRIMINAL CASE No. 37971 of 2024

DHANARAJ

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms. Archana Maheshwari- Advocate for the petitioner.

Shri Vinod Thakur- G.A. for the State.

Shri Yash Pal Rathore- Advocate for the complainant.

ORDER

Heard finally, with the consent of the parties.

2] This petition has been filed by the petitioner/accused under Section 528 of Bharatiya Nagrik Suraksha Sanhita, 2023/482 of the Cr.P.C., for quashing the FIR and all the subsequent proceedings as an FIR dated 03.09.2021 was lodged at Crime No.514/2021 at Police Station Maheshwar, District Khargone under Sections 363, 366, 366-A, 376, 376(2)(N) and 344 of the Indian Penal Code, 1860 and Section 5(L), 5j(ii) and 6 of the Protection Of Children From Sexual Offences Act, 2012.

3] The allegation against the applicant is of abduction and rape.

4] Counsel for the petitioner has submitted that the prosecutrix was major at the time of the incident, and was a consenting party, and although, she has already been examined in the Trial Court and has not



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supported the case of the prosecution in any manner, however, the petitioner is apprehending that in case of any adverse order, serious prejudice would be caused to him, and also to the prosecutrix who was not only a consenting party, but has also affirmed her consent before the Principal Registrar of this Court on 30.01.2025. It is also submitted that along with the petition, photographs of the petitioner along with the respondent No.2 and their son have also been filed on record.

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

6] Counsel appearing for the respondent No.2/prosecutrix has submitted that the prosecutrix is married to the petitioner and is presently residing with him in his house only, and they are also blessed with a son.

7] Heard. Having considered the rival submissions and on perusal of the documents filed on record, it is found that although before the Trial Court the case is at the advance stage because as many as thirteen witnesses have already been examined, however, considering the fact that the age of the prosecutrix is disputed by the petitioner, and she herself has stated that she has solemnized marriage with the petitioner and has a son out of this wedlock, this Court is of the considered opinion that no purpose would be served to have the evidence tested before the Trial Court, the outcome of which may be extremely prejudicial to the interest of both the parties, as if any adverse order is passed, it would be devastating for the petitioner as also the prosecutrix and their son.

8] Reference in this regard may also be had to the decision rendered by the Supreme Court in the case of *Kapil Gupta vs. State of NCT of*



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Delhi and another reported as ***2022 SCC OnLine SC 1030***. 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)



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9] In view of the same, in the present case, when the prosecutrix herself has consented that the matter be compromised, and who is also the mother of a child having born out of the wedlock between the applicant and the prosecutrix, extra-ordinary powers of this Court are required to be exercised to save the prosecutrix from further suffering, and to give quietus to the matter here and now only.

10] Accordingly, the petition stands **allowed**, and the FIR dated 03.09.2021 lodged at Crime No.514/2021 at Police Station Maheshwar, District Khargone under Sections 363, 366, 366-A, 376, 376(2)(N) and 344 of the Indian Penal Code, 1860 and Section 5(L), 5j(ii) and 6 of the Protection Of Children From Sexual Offences Act, 2012 as also the subsequent proceedings arising out of the said crime number, pending against the petitioner, are hereby ***quashed***.

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

(SUBODH ABHYANKAR)
JUDGE