

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

**BEFORE**

**HON'BLE SHRI JUSTICE SANJAY DWIVEDI**

**ON THE 25<sup>th</sup> OF JANUARY, 2024**

**M.CR.C. No.26259 of 2022**

**BETWEEN:-**

**AJEET PARMANI S/O LATE GYANCHAND PARMANI,  
AGED ABOUT 53 YEARS, OCCUPATION BUSINESS, R/O  
18/2 RIDGE ROAD, CHINAAR APARTMENT, IDGAH HILLS,  
BHOPAL**

**.....PETITIONER**

***(BY SHRI PRIYANK CHOUBEY - ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH  
THE P.S. BAIRAGAH, DISTRICT BHOPAL (MP)**
- 2. DEEPA VASWANI W/O NARESH VASWANI,  
AGED ABOUT 53 YEARS, OCCUPATION  
PRIVATE WORK R/O 36, H 7, IN FRONT OF  
HEMA CHATWALA, CHANCHAL CHOURAHA  
ROAD, BAIRAGAH, DISTRICT BHOPAL (MP)**

**.....RESPONDENTS**

***(RESPONDENT/STATE BY SHRI B.K. UPADHAYAY – DEPUTY GOVERNMENT  
ADVOCATE)***

***(RESPONDENT/COMPLAINANT PRESENT IN PERSON)***

.....  
**Reserved on : 11.12.2023**

**Pronounced on : 25.01.2024**  
.....

*This petition having been heard and reserved for orders,  
coming on for pronouncement this day, the Court pronounced the  
following:*

**ORDER**

The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure for quashing the offence registered against him at Police Station Bairagarh, District Bhopal vide FIR No.197/2022 under Sections 376, 376(2)(n), 323 and 506 of the Indian Penal Code.

2. The challenge is founded mainly on the ground that in relation to some transaction took place between the petitioner and complainant, a dispute arose between them and to get rid of it, the complainant has instituted the instant criminal proceeding against the petitioner whereas according to him, it is nothing but an abuse of process of law.

3. As per the facts of the case, the complainant on 13.04.2022 has made a complaint to the police stating therein that the petitioner till 06.03.2022 by blackmailing her and giving threat of life has committed rape with her. As per the complainant, in the year 1990, her husband met with an accident in which he lost his one leg and during her husband's hospitalization and even after his discharge when they did not get any sort of help from her in-laws, then the complainant and his husband decided to live in a rental house. Thereafter, to meet out her daily needs, the complainant use to earn money by working as a domestic help. In the year 1995, the complainant and her husband had purchased a house at Rajendranagar from the amount received towards the accident claim. However, in the year 2000, one couple involved in prostitution shifted to Rajendranagar and also tried to persuade the complainant for getting her involved in prostitution, but she refused to do so. As per the complainant, again that couple persuaded her for developing physical relation with the petitioner that too with an assurance that the petitioner would look after her and then she surrendered and gave her consent for the same.

Subsequently, one day that couple visited the house of complainant along with some persons introducing them as their relatives, but all of a sudden, the police conducted a raid in her house in which though that couple ran away from spot, but the police arrested the complainant and registered a case against her.

(3.1) As per the complainant, when the petitioner came to know about the said incident, then he not only met went to meet her in the jail but also bailed her out and thereafter, she started working in the house of the petitioner. Though, the complainant was working in the house of the petitioner, but in lieu thereof she did not get any penny and on the contrary, the petitioner started persuading her for developing physical relation in which he did mar-peat with the complainant and thereafter, a complaint was made at Police Station Bairagarh and then offence got registered against the petitioner and thereafter, he got arrested. As per the complainant, though in the said offence, the petitioner was not being granted bail, but in pursuance to an assurance given by the petitioner and his relatives, the case registered against him got withdrawn in the year 2010. Thereafter, the petitioner not only started blackmailing the complainant saying that he would communicate the information in respect of offence got registered against her in the year 2000 to her daughter, but also exploited her by getting her involved in the prostitution again.

(3.2) In the year 2017, the daughter of complainant got married in Gujrat and then in the year 2018, the complainant started living in the house of the petitioner. Thereafter, the complainant though made various efforts to get the things settled, but she failed to do so resulting into her continuous physically and monetary exploitation. Left with no option, the complainant made the complaint against the petitioner and pursuant thereto, offence

vide FIR No.197/2022 under Sections 376, 376(2)(n), 323 and 506 of the IPC got registered against the petitioner.

4. Shri Choubey, learned counsel for the petitioner has submitted that from the story as has been narrated by the complainant in her complaint, it can be easily gathered that the allegations made against the petitioner are nothing but an effort made just to settle the personal score with the petitioner. He has submitted that a document has been annexed with this petition which is a complaint made by the petitioner's wife alleging therein that the complainant is blackmailing her. He has submitted that the petitioner had also made a complaint on 05.03.2023 at Police Station Bairagarh, Bhopal alleging therein that the complainant and her husband are threatening him for grabbing his house. He has further submitted that in the panchayat of Sindhi Community, though the petitioner had made a complaint against the complainant and the office bearer of the said Community had also tried to convince the complainant, but she was adamant and not accepted any of their conditions. He has submitted that from the conduct of the complainant, it can be gathered that she has instituted a false complaint against the petitioner. He has submitted that in a case reported in **AIR 1992 SC 604 [State of Haryana and others Vs. Bhajan Lal and others]**, the Supreme Court has laid down the guidelines for quashing the FIR showing the eventualities of the incident and from the said guidelines, it is clear that the instant case is an example of malicious prosecution. That apart, he has submitted that if the allegations made in the FIR are considered to be true at their face value and accepted in their entirety even then *prima facie* they do not constitute any offence as registered against the petitioner. Last of all, he has submitted that from the whole scenario of the case, it is clear that the petitioner is innocent and

has been falsely implicated in the alleged offence and, therefore, he has prayed the offence registered against the petitioner may be quashed.

5. On the other hand, learned Government Advocate has opposed the submissions advanced by learned counsel for the petitioner and submitted that in view of the complaint made by the complainant, offence under Section 376 of the IPC has rightly been registered against the petitioner and as such, this petition deserves dismissal.

6. The complainant herself appeared in person and submitted that the petitioner has harassed her in all manners and, therefore, she has no other option but to made a complaint to police.

7. I have heard the arguments advanced by learned counsel for the parties and perused the record.

8. The FIR contains a detailed story of the incident from beginning to end as to how the complainant was compelled to get involved in prostitution; offence got registered against her in a raid conducted by the police; she came in connection with the petitioner; relationship got developed between them gradually and thereafter, the petitioner started exploiting her and dispute arose between them. That apart, from the contents of FIR, it can also be gathered that the complainant and petitioner were familiar to each other and there were so many ups and downs in their relationship. However, it has not been clarified by the complainant in the complaint/FIR, as to why she did not make any effort to make a complaint to the police at the relevant point of time when she was compelled to get involved in prostitution and for developing physical relation with petitioner in the year 2000. More so, from the contents of complaint/FIR, it cannot be said that the conduct of the complainant was very fair as repeatedly, several complaints were made against her and in fact, she was

kept behind the bars by the police pursuant to registration of an offence against her and in that situation, it was the petitioner who bailed her out and this fact has also been admitted by the complainant in her complaint. Though from the complaint, it can be gathered that repeatedly, several complaints were made to the police against the complainant and petitioner and their family members had also tried to get the matter resolved but during that period, no allegation of committing rape upon the complainant was made by her. However, all of a sudden, in the year 2022, narrating the incident said to have been occurred in the year 2000, the present complaint/FIR got registered against the petitioner that too without explaining the reason as to why, the complainant could not disclose the said incident to the police at the relevant point of time and as such, it creates suspicion in the mind.

9. However, the Supreme Court in the case of **Bhajan Lal** (supra), laying down the criteria under which the FIR can be quashed has observed as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a

cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

In view of the aforesaid enunciation of law and the material collected by the prosecution, I am of the opinion that if the allegations contained in the FIR are considered to be true at their face value, even then, the offence registered against the petitioner is not made out and on the contrary, it can be gathered that the complainant has initiated the prosecution against the petitioner with an ulterior motive for wreaking vengeance with a view to spite him due to her private and personal grudges and under such circumstances, I am of the opinion that such prosecution is not sustainable and deserves to be quashed.

10. Resultantly, the offence registered against the petitioner vide FIR No.197/2022 under Sections 376, 376(2), 323 and 506 of the IPC at Police

Station Bairagarh, District Bhopal, is hereby quashed. Consequently, all subsequent proceedings arising out of the said FIR are also quashed.

11. As an upshot, the petition succeeds and is hereby **allowed**.

**(SANJAY DWIVEDI)**  
**JUDGE**

dm