

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 3rd OF JUNE, 2024

MISC. CRIMINAL CASE No. 21004 of 2024

BETWEEN:-

.....PETITIONER

(BY SHRI RAHUL YADAV - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH POLICE STATION R/O THROUGH POLICE STATION PICHHORE DISTRICT SHIVPURI (MADHYA PRADESH)
- 2.

.....RESPONDENTS

(BY SHRI SOHIT MISHRA - GOVERNMENT ADVOCATE)

(SHRI PRABHAT KISHORE - ADVOCATE FOR RESPONDENT NO.2)

.....
This application coming on for hearing this day, the court passed the following:

ORDER

With consent heard finally.

1. The present petition has been preferred by petitioner under Section 482 of the Code of Criminal Procedure, 1973 for quashment of FIR bearing Crime No.306/2020 registered at Police Station Pichhore, District Shivpuri for the offence punishable under Sections 363, 366, 34 and 376 of IPC and

Section 5/6 of POCSO Act as well as entire consequential proceedings arising out of the same.

2. Petitioner and respondent No.2/prosecutrix are present in person and they informed this Court that they entered into wedlock and blessed with one child- Rahul. It is submitted that statement of prosecutrix was recorded in which she categorically referred the fact that she left her maternal home on her own volition and petitioner and prosecutrix are living as married couple since then. Both the parties were referred to Principal Registrar of this Court to ink down their identity and intent and both have expressed their desire to settle the matter because they are married to each other.

3. From perusal of facts and circumstances of the case, it appears that FIR was registered on 28.06.2020 at the instance of father of prosecutrix for offence under Sections 363, 366, 376, 34 of IPC and Section 5/6 of POCSO Act and on the said complaint, case was registered regarding missing of prosecutrix and search was made for the girl. After recovery of the prosecutrix, her statement under Section 161 of Cr.P.C. was recorded. Thereafter, statement under Section 164 of Cr.P.C. was recorded and medical was carried out. Charge sheet was filed. Now petitioner and respondent No.2/prosecutrix married to each other and prosecutrix is living in her household peacefully.

4. Meanwhile, it appears that it is a case where petitioner and respondent No.2/prosecutrix married to each other and entered into wedlock and now prosecutrix is living with her husband in her matrimonial home. They are blessed with one child namely rahul. Prosecutrix and petitioner both appeared before this Court and expressed their desire to settle the matter because both are living as married couple. Therefore, this petition has been preferred under

Section 482 of Cr.P.C.for quashment of FIR as well as all consequential proceedings pending before the trial court.

5. This Court referred the matter before Principal Registrar of this Court for verification of compromise. Before the said authority both the parties appeared and expressed their desire to settle their case. The report of the Principal Registrar is attached.

6. Specific query being made by this Court and it was found that both the parties are living as married couple and are ready to bury the hatchet, if any.

7. Learned counsel for petitioner as well as respondent No.2 also advanced arguments in support of compounding of the case.

8. Counsel for the respondent/State opposed the prayer. However, could not dispute the facts as submitted.

9. Heard the learned counsel for the parties and perused the documents appended thereto.

10. This is a case where petitioner and respondent No.2/prosecutrix shared emotional and physical proximity. At the instance of father of prosecutrix, case was registered against petitioner but statements under Section 161 and 164 indicate that both the parties shared the proximity by mutual consent. Prosecutrix left her maternal home on her own volition. Although, at the relevant point of time, prosecutrix was minor and was at the cusp of attaining majority but later on she attained majority and thereafter prosecutrix and accused/petitioner entered into wedlock. They earlier appeared before this Court as well as before Principal Registrar of this Court on 28.05.2024 and expressed their desire for settlement.

11. Be that as it may.

12. Fact remains that petitioner and respondent No.2 are married couple

and both are living in same household and they are blessed with one child. It is regular and easy to be retributive but at the same time a Judge has to sublimely feel the pulse of the case. One cannot forget that “Every “F I L E” with same alphabets, contains a “L I F E”. (*See : In Re State of Madhya Pradesh Vs. Pankaj Mishra, 2021 SCC OnLine MP 5480 and Geeta Paliwal and others Vs. Sitaram and others reported as 2023 SCC Online MP 811.*).

13. Here “FILE” before this Court carries not only a “LIFE” but many LIVES.

14. Therefore, this Court under the obtaining facts and circumstances of the case intends to tread on the path of reformative or atleast other than retributive one because:-

(i) A girl of tender age around (16-17 years) has fallen in love with a boy of (21-22) years and driven by hormones they shared emotional and physical proximity and moved out of social/legal limits.

(ii) Girl was of consistent view that she shared emotional/physical proximity on her own volition and she left her maternal home voluntarily. Her statements under Section 161 and 164 Cr.P.C. indicate so.

(iii) Petitioner and prosecutrix entered into wedlock and are blessed with one child and girl/prosecutrix is living peacefully with her husband. In case of any punishment, petitioner may have to go to jail and that would disrupt the family forever.

(iv) Both the parties appeared before the Principal Registrar of this Court and inked down their intent and identity repeatedly. Therefore, in the cumulative facts and circumstances of the case, matter deserves consideration.

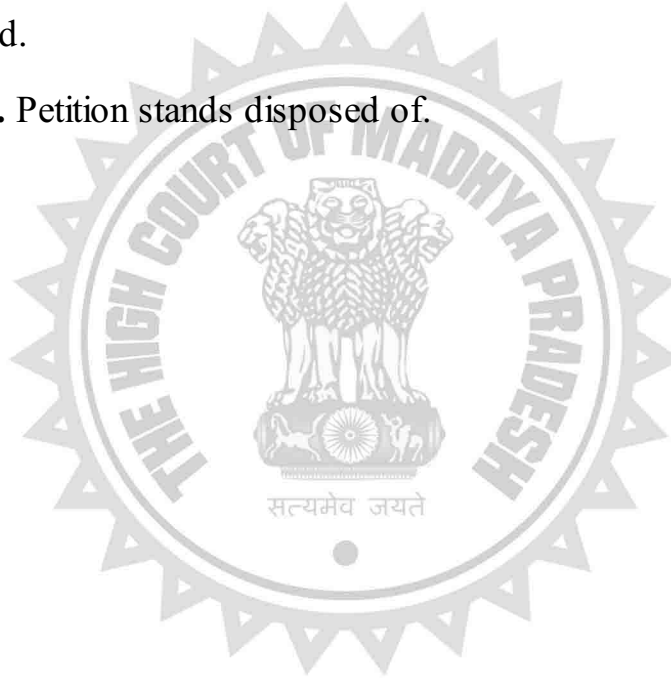
(v) Petitioner does not have any previous criminal background so as to

infer any mischief at this juncture. Therefore, keeping this spirit, this Court intends to inject “L I F E” into this “F I L E” in the interest of justice.

15. Resultantly, petition stands allowed and FIR bearing Crime No.306/2020 registered at Police Station Pichhore, District Shivpuri for the offence punishable under Sections 363, 366, 376, 34 of IPC and Section 5/6 of POCSO Act and all consequential proceedings arising therefrom stand quashed against petitioner. Petitioner is set free. But an expectation can certainly be raised by this Court that petitioner/accused and prosecutrix shall live peacefully and would try to attain nuptial bliss so that family and social harmony can be maintained.

16. Petition stands disposed of.

Ashish*



**(ANAND PATHAK)
V. JUDGE**