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MCRC-33594-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

MISC. CRIMINAL CASE No. 33594 of 2024

ROHAN NAIK AND OTHERS

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Ms.Savita Rathore, learned counsel for the applicant.

Shri Chandra Bhusan Pandey, learned counsel for the
complainant.

Shri Surendra Gupta, learned GA for the State.

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Reserved on: 16.8.2024
Delivered on: 20.9.2024

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ORDER

1.The petitioner has filed the present petition under Section 482 of CrPC for quashment of FIR dated 03/05/2024 and quashment of the proceedings u/s376,506,376(2)(n),201 of the IPC & chargesheet dated 14/06/2024 and subsequent proceedings arising out of crime no.164/2024 registered by P.S. Palasia, Indore on 03/05/2024 S.T. No. 417/2024 pending before District and Session Judge, Indore.



2.As per the prosecution story, prosecutrix made complaint against the applicant regarding physically exploitation and having relationship by breaking trust and developed physical relationship. It is alleged against the applicant that, on February 2022 Prosecutrix met with present applicant in Mithya Club Indore. Then they started talking with each other. The proposal for marriage was made by the present applicant which was verbally accepted by the complainant. Thereafter the present applicant has started visiting her house. Due to the love affair present applicant used to take complainant to house, hotels and outside Indore for establishing physical relations. The present applicant always used to tell the complainant that when he settled down once after that he would marry her. Present applicant told her that he had a home loan for which complainant had given him Rs. 70,000/- to 1 Lack rupees to the present applicant. Present applicant and complainant also visited places like Goa, Mumbai, and Pachmarhi. During this time, the complainant suspected that the present applicant was also in contact with another girls. Due to this, a quarrel took place between the two and the present applicant started to abuse and also assaulted her. He had made cruel physical relations with, the complainant due to which complainant body get injured. Complainant came to know that present applicant used to lure innocent girls with his words and establish physical relationship with them under the pretext of marrying them. On 16/03/2024 present applicant went her house and tried to have physical relations with her when the complainant refused, objectionable photos and videos were shown her from his phone. He threatened that if she decline to make physical relationship with him, he



would make the videos and photos viral. Under the threat of making the video viral, forced physical relations were established with her.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case and he has not committed any offence. Prosecutrix is a major lady and it is a case of consent therefore no case u/s 376(2)(n) can be made out against the present applicant. In this case both the parties have amicably settled and resolved their dispute and do not want to prosecute the case. On these grounds counsel for the applicant prays for quashment of FIR and charges framed against the applicant by the learned Trial Court. She has also placed reliance in the judgement passed by Hon'ble Apex Court in the case of **Narinder Singh & Ors. Vs. State of Punjab & Anr. (2014) 6 SCC 46**, **Gian Singh v. State of Punjab, (2012) 10 SCC 303** and also in the judgment passed by this High Court in **MISC. CRIMINAL CASE _No. 790 of 2021, Arvind Rajoriya vs The State Of Madhya Pradesh on 20 May, 2024, Shailendra Singh Lodhi Vs. State Of Madhya Pradesh on 31 May, 2024.**

4. Learned counsel for the objector has expressed his no objection and submitted that since both the parties have settled their dispute, the matter is not called for further criminal trial and the criminal proceedings may be quashed.

5. Learned Govt. Advocate has opposed the prayer made by learned counsel for the applicant by submitting that the said offence is of heinous nature. It is also submitted that the law laid down by Hon'ble Apex Court in



the case of **Narinder Singh & Ors. Vs. State of Punjab & Anr. (supra)**, **Gian Singh Vs. State of Punjab (supra)**, it is not mandated that the offence of rape can be compounded.

6 . I have heard the counsel for the parties and perused the record.

7. From the face of record, it is clear that the offence under sections 376 IPC is non-compoundable. Now the question for determination is as to whether the offence like rape can be quashed by using extraordinary jurisdiction of this Court under Section 482 of Cr.P.C.

8. In **Gian Singh v. State of Punjab & Anr., (2012) 10 SCC 303** , the full Bench of Hon'ble Supreme Court has observed as under:

"61. The position that emerges from the above discussion can be summarized thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.:

(i) to secure the ends of justice, or

(ii) to prevent abuse of the process of any court.

In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have



settled the dispute. Such offences are not private in nature and have a serious impact on society..."

9. Further, in *Narinder Singh & Ors. v. State of Punjab & Anr.*, (2014) 6 SCC 466, the Supreme Court has observed as under:

"29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure

(i) ends of justice, or

(ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender."



10. In **Shimbhu v. State of Haryana, (2014) 13 SCC 318**, the Full Bench of Hon'ble Supreme Court has observed as under:

"20. Further, a compromise entered into between the parties cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurized by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise. In fact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurize her for a compromise. So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at between the parties in rape cases to be a ground for the court to exercise the discretionary power under the proviso of Section 376(2) IPC."

11. So far as the judgments passed by co-ordinate Bench of this Court in *Arvind Rajoriya vs The State Of Madhya Pradesh (supra) and Shailendra Singh Lodhi Vs. State Of Madhya Pradesh (supra)*, are concerned, the facts of these cases are confined to the peculiar circumstances and therefore, due to different factual matrix, they cannot be applied to the case in hand, hence, distinguished.

12. In *State of M.P. v. Madanlal, (2015) 7 SCC 681*, the Supreme Court has observed as under:

"18. The aforesaid view was expressed while dealing with the imposition of sentence. We would like to



clearly state that in a case of rape or attempt to rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are the offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the "purest treasure", is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. **There cannot be a compromise or settlement as it would be against her honour which matters the most.** It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error."

13. Now, on this aspect, this Court can profitably rely on a full Bench decision of Hon'ble Apex Court rendered in **State of M.P. v. Laxmi Narayan & Ors., (2019) 5 SCC 688**, the Supreme Court has observed as under :

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those



arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;"

14. However, the principle of law also came to be reiterated recently the Hon'ble Supreme Court in **Daxaben vs. State of Gujarat and Others** [2022 Law Suit (S.C.) 882], wherein the Hon'ble Apex Court also considered the judgment of **State of M.P. vs. Laxmi Narayan & Ors.**, (2019) 5 SCC 688 and in para no.38 has held as under:-

38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is



serious and grave and falls within the ambit of crime against society.

15. Nevertheless, this case is related to cruel commission of rape against the present applicant. It also emerged from the fact that the applicant has also tried to make physical relations not only on the pretext of marriage but also on the basis of threat of posting the videos from his phone. As such the allegation against the applicant is not only related to a woman but it also influenced the integrity and holiness of the ladies. When the Court is using its extra ordinary jurisdiction under Section 482 of CrPC, the Court has also to see other facts and circumstances concerning to the society. Now, the offence of committing rape is one of the heinous offence and stringent provisions are made by legislature for punishing the culprits of the rape. A women survives as a mother, wife, sister and daughter etc. of every person. Her body is known as her own temple as she is specifically known for her sacrifices. Her sacrosanct entity is required to be protected in every circumstances. The modesty and sanctity of a woman is always worshiped in our country. No one should be allowed to ravish her and later on, only on the basis of compromise under specific circumstances, allowed to be acquitted, specially when the legislature itself in its wisdom declines to allow such type of compromise.

16. No doubt, in the present case, the prosecutrix has filed a compromise for compounding the case against the applicant which shows that she does not want to prosecute the present FIR against the applicant. However, in view of the aforesaid discussion and law laid down by the **full Bench** of Hon'ble



Apex Court the cases of **Gian Singh (supra)**, **Shimbhu (supra)** & **State of M.P. v. Laxmi Narayan (supra)** as well as other judgements rendered in the case of **Narinder Singh (supra)**, **State of M.P. vs. Madanlal (supra)**, and **Daxaben (supra)**, it can be concluded that by simply entering into compromise, charges cannot be said to have been mitigated or quashed as the offence is against dignity of women as well as public interest.

17. In the result thereof, this petition filed under Section 482 of Cr.P.C. on behalf of the applicant is liable to be and is hereby rejected.

(PREM NARAYAN SINGH)
JUDGE

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