

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

**BEFORE
HON'BLE SHRI JUSTICE ANAND PATHAK**

MISC. CRIMINAL CASE No. 4589 of 2020

Between:-

**MANOHAR SILAWAT S/O SUKHLAL
SILAWAT, AGED ABOUT 55 YEARS,
OCCUPATION -PRINCIPAL, MIDDLE
SCHOOL CHEEPAN, R/O VILLAGE
BAJRANGGARH, POLICE STATION
BAJRANGGARH, DISTRICT GUNA (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI AMIT LAHOTI - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH
THROUGH POLICE STATION
BAJRANGGARH, DISTRICT GUNA
(MADHYA PRADESH) THROUGH ITS
STATION HOUSE OFFICER.**
- 2. SMT. ANEETA MITTOLIYA S/O NATTHILAL**

**MITTOLIYA, AGED ABOUT 41 YEARS,
RESIDENT OF JAGJEEVAN NAGAR
GANDHI ROAD, THATIPUR, GWALIOR
(MADHYA PRADESH)**

.....RESPONDENTS

**(BY SHRI RAVI BALLABH TRIPATHI - PANEL LAWYER AND
NONE FOR RESPONDENT NO.2 DESPITE SERVED AND
REPRESENTED)**

Matter heard and reserved on	:	21-02-2022
Order was delivered on	:	09-06-2022

ORDER

1. This petition has been preferred under Section 482 of Cr.P.C. seeking quashment of FIR registered against the petitioner and consequential criminal proceedings arising out of Crime No.207/2019 registered at Police Station Bajranggarh District Guna for offence under Sections 376, 506 of IPC.
2. An FIR got registered by respondent No.2/complainant/prosecutrix on 04-12-2019 who happens to be a lady aged 41 years against the petitioner, a male aged 55 years for offence punishable under

Sections 376 and 506 of IPC with the allegations that her husband Mukesh died in 1999 leaving two children. Since petitioner was issueless from his first marriage with his wife Sheela Bai, he induced her to marry so that he can maintain her children born out of first wedlock of prosecutrix and with that inducement he brought her to Bajranggarh and without her consent committed rape in the month of May, 2001 with her as a result whereof she became pregnant and out of such relation, one child namely Harsh was born. Thereafter petitioner used to have physical relationship with her continuously and when after four years she came back to Gwalior then also petitioner used to call her for intermittent payments towards her maintenance amount and used to commit rape and threatened her with dire consequences. Presently she is living with her child Harsh at Gwalior, another child born out of the wedlock of petitioner and complainant and therefore, filed this complaint against the petitioner.

3. After investigation, charge-sheet was filed against the petitioner and trial is under consideration.
4. It is the submission of learned counsel for the petitioner that from

the very contents of FIR, improbable event has been conceptualized by prosecutrix and case suffers from vexatious litigation just to harass petitioner. In 2001, she came in the contact of petitioner and out of their relationship, if child was born who happens to be 20 years old by now then it is highly improbable that she remained silent for such long years and after 18 years she raised her voice. Story indicates false allegations.

5. It is further submitted that petitioner and respondent No.2 both belong to Scheduled Caste and as per their customs *Natra* (social customs like live-in/marriage) was performed in which with consent of his first wife Sheela Bai, he lived with both of his wives and when despite instance of prosecutrix, petitioner did not part his whole property in favour of prosecutrix, then these false allegations have been levelled.
6. Learned counsel for the petitioner filed written synopsis in which he annexed copy of application under Section 125 of Cr.P.C. filed by the prosecutrix against the present petitioner before Principal Judge, Family Court, Gwalior in which she mentioned the fact that with petitioner marriage was solemnized on 13-06-2001 through

Hindu Rites and Rituals and thereafter they lived together till July, 2019 and now petitioner has removed her from his family household and therefore, she is living in her maternal home, therefore, seeking maintenance to sustain herself. Such divergent admission of facts itself renders the case doubtful. He relied upon **Uday Vs. State of Karnataka, (2003) 4 SCC 46, Popular Muthiah Vs. State represented by Inspector of Police, (2006) 7 SCC 296, Deepak Gulati Vs. State of Haryana, AIR 2013 SC 2071, Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and others, AIR 2019 SC 327, Pramod Suryabhan Pawar Vs. State of Maharashtra and others, AIR 2019 SC 4010.**

7. Learned counsel for the respondent/State opposed the submissions and prayed for dismissal of this petition on the ground that trial will decide the fate of the case.
8. This is a case where petitioner is facing heat of trial on the basis of allegations so levelled by the prosecutrix over her for offence under Sections 376 and 506 of IPC. Contents of FIR reproduced for ready reference:

“आर. 630 संदीप कुमार द्वारा जिला पुलिस कार्यालय गुना से पत्र क्र./[iq-v-](#)/गुना/[jhMj@dsl](#) डायज्हा@232ए/19 दिनांक 05/12/19 सहित थाना कोतवाली गुना के अप. क्र. [0@19](#) धारा 376,506 भादवि की प्रथम सूचना प्रतिवेदन, डायरी मय प्रपत्रों के असल अपराध कायमी हेतु लाकर पेश की गई थाना कोतवाली गुना के प्रथम सूचना प्रतिवेदन क्रमांक [0@19](#) की नकल निम्नवत है फरियादिया श्रीमति अनीता मितौलिया पुत्री नत्थीलाल मितौलिया उम्र 40 वर्ष निवासी जगजीवन नगर गांधी रोड थाटीपुर ग्वालियर मोबाइल नम्बर 9685345539 ने हमराह अपने लडके हर्ष सिलावट, लडकी शालनी सिलावट के उपस्थित थाने आकर मौखिक रिपोर्ट की कि सन् 1999 में मेरे पति मुकेश की मृत्यु हो गई थी। पति की मृत्यु के बाद मनोहर पुत्र सुखलाल सिलावट निवासी बजरंगगढ के बच्चे नहीं होते थे इसलिये मनोहर मुझे मई 2001 में बहला फुसलाकर शादी करने का झांसा देकर एवं बच्चों का खर्च उठाने की कहकर मुझे बजरंगगढ ले आया था। बजरंगगढ में मनोहर ने मेरी सहमति के बिना मेरे साथ बुरा काम बलात्कार किया जिससे मैं प्रेगनेंट हो गई व मेरे 01 पुत्र हर्ष पैदा हुआ। मनोहर मेरी मर्जी के खिलाफ मुझे जान से मारने की धमकी देकर मेरे साथ बुरा काम (बलात्कार) करता था। उससे परेशान होकर 04 साल बाद मैं ग्वालियर चली गई थी तब मनोहर खर्च के पैसे देने के बहाने मुझे बुलाता था और जबरजस्ती मेरे साथ बुरा काम (बलात्कार) था और कहता था कि यदि थाने में रिपोर्ट करने गई तो तुझे जान से खत्म कर दूंगा। उसके डर के कारण मैंने थाने में रिपोर्ट नहीं की। वर्तमान में मैं अपने लडके के साथ ग्वालियर में रह रही हूँ। मनोहर ने मुझे बहला फुसलाकर पत्नी बनाकर रखने

का कहकर एवं मेरे बच्चों का खर्चा उठाने की कहकर मुझे ले आया था और मेरे साथ बुरा काम (बलात्कार) करता था। आज रिपोर्ट को आई हूँ रिपोर्ट करती हूँ कार्यवाही की जावे। उपरोक्त रिपोर्ट पर से [vi-dz-0@19](#) धारा 376.506 भादवि का कायम कर विवेचना में लिया गया। घटना स्थल थाना बजरंगगढ जिला गुना के क्षेत्राधिकार का पाया जाने से एफ.आई.आर. असल अपराध पंजीबद्ध करने हेतु थाना बजरंगगढ स्थानांतरित की जाती है। हस्ता. फरियादिया हिन्दी अनीता हस्ता.कायमीकर्ता उनि. रूबी भार्गव थाना कोतवाली दिनांक 04/12/19 उक्त अपराध विवरण पर से असल अपराध क्र. [207@19](#) धारा 376.506 भादवि का पंजीबद्ध कर विवेचना में लिया गया।”

9. Similarly perusal of application under Section 125 of Cr.P.C. filed at the instance of petitioner through synopsis indicates that marriage between the petitioner and respondent No.2 held on 13-06-2001 according to Hindu Rites and Rituals and she lived with petitioner for 18 years and blessed with a child Harsh who is almost 20 years old by now and pursuing his study. Petitioner happens to be a Headmaster in Government School Aron, therefore, amount to the tune of Rs.40,000/- was sought for along with expenses Rs.5,000/- and counsel fee Rs.10,000/-.
10. Both these allegations and submissions go in different directions.

Contents of FIR reveal that for 18 years, prosecutrix lived with petitioner and in fact blessed with a boy namely Harsh who is almost 20 years old by now and after 18 years she filed a complaint on which case has been registered against the petitioner. Such delay in filing of case renders the case doubtful.

11. When petitioner and prosecutrix lived together as a couple for 18 long years then after such lapse of time any allegation levelled by prosecutrix pales into oblivion because they are primarily motivated to exert pressure. Not only this, perusal of application under Section 125 of Cr.P.C. filed at the instance of respondent No.2 further reveals that on the one hand she levelled the allegations that they lived in live-in relationship but now she makes an application that they lived as married couple. Such divergent stand can only be availed of in case of misrepresentation of facts.
12. The Apex Court in the matter of **State of Haryana and others Vs. Ch. Bhajan Lal and others, AIR 1992 SC 604** laid down the different exigencies under which interference under Section 482 of Cr.P.C. can be made. Following exigencies are as under:

- “(a) 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;*
- (b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;*
- (c) 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;*
- (d) 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;*
- (e) 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;*
- (f) 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;*

(g) 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.”

13. Here, it appears that from the very perusal of contents of FIR, no offence is made out and perusal of charge-sheet and different statements further substantiates the arguments of petitioner. Besides that, it appears to be vexatious and frivolous litigation just to exert pressure over petitioner to extract money or an attempt made by prosecutrix to convert domestic dispute into criminal allegations. It would be miscarriage of justice if such false allegations are allowed to sustain and petitioner is unnecessarily dragged into litigation to defend himself.
14. On the basis of cumulative analysis, perusal of charge-sheet and nature of allegations, no case for trial is made out. From the very contents of FIR and attending circumstances, case appears to be frivolous one and hence FIR registered at Crime No.207/2019 at Police Station Bajranggarh District Guna for offence under Sections 376, 506 of IPC and consequential criminal proceedings

are hereby quashed. Petitioner stands discharged from all allegations.

15. Petition stands allowed and disposed of.

**(Anand Pathak)
Judge**

Anil*