

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 9th OF MAY, 2024

MISC. CRIMINAL CASE No. 9045 of 2024

BETWEEN:-

GOVIND GORELE S/O SHRI SUKHRAM GORELE,
AGED ABOUT 31 YEARS, OCCUPATION: PRIVATE
JOB R/O WARD NO.13 MANA BUDHNI TEHSIL
BUDHNI DISTRICT SEHORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI SATYAM AGRAWAL - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH
THROUGH POLICE STATION BUDHNI
DISTRICT SEHORE (MADHYA PRADESH)

2. PROSECUTRIX X

.....RESPONDENTS

(BY SHRI K.S. BAGHEL – GOVERNMENT ADVOCATE)

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

ORDER

This application under Section 482 of Cr.P.C. has been filed
seeking following reliefs:

“It is, therefore, most humbly prayed that this
Hon’ble court be pleased to quash the
impugned F.I.R. Crime No.30/2024 in Police
Station Budhni, Sehore Madhya Pradesh,
against the present applicant, and any other
consequential proceedings, in the interest of
justice.”

2. I.A. No. 5442/2024 has been filed seeking permission to
compound the offence.

3. It is submitted by counsel for applicant that applicant is facing investigation for offence under Section 376(2)(n) of IPC in Crime No.30/2024 registered at Police Station Budhni District Sehore. Since applicant is ready to marry the prosecutrix therefore, prosecutrix has agreed to compound the offence and accordingly, FIR in Crime No.30/2024 registered at Police Station Budhni District Sehore be quashed.

4. The aforesaid application shall be considered after considering the allegations made by the prosecutrix in the FIR.

5. The prosecutrix lodged an FIR on 23.01.2024 on the allegations that earlier she was working in Trident Company from January 2021. On 12.02.2021, she came in contact with applicant, who was the resident of Ward No.12, Mana Budhni, District Sehore. Both of them started liking each other. Thereafter, applicant proposed that he would like to marry her and his proposal was accepted by her. On 25.03.2021 at about 12.00 in the night, applicant came to her room and committed rape in spite of resistance by the prosecutrix on the pretext that very soon he would marry her and she should not narrate this incident to anybody. Thereafter on false pretext of marriage, he had physical relationship with her on multiple occasions. Thereafter, applicant left his job and shifted to Gujarat and also started insisting that prosecutrix should also leave her job and they would marry. At the instance of applicant, prosecutrix also left the job and when she requested the applicant to marry her, then he refused to marry her and clearly stated that now he would not marry her and accordingly, the FIR was lodged.

6. It is submitted by counsel for applicant that since prosecutrix is a major lady and if she was in physical relationship out of her own volition, then it cannot be said that applicant has committed an offence

of rape. It is further submitted that after the prosecutrix left her job, she also came to Gujarat but since family members of respondent No.2/prosecutrix were not ready for marriage, therefore, he could not perform marriage.

7. If I.A. No.5442/2024 is considered in the light of FIR as well as submissions made by counsel for applicant that although the prosecutrix had gone to Gujarat also but applicant did not marry her, then it is clear that the submission made by applicant in I.A. No.5442/2024 that he would marry the prosecutrix is false. When this fact was verified from the counsel for applicant then he stated that although applicant is ready but since prosecutrix is not ready to marry the applicant in absence of consent of her parents and parents of respondent No.2 are not ready for marriage, therefore, marriage is not being performed.

8. Thus, it is clear that I.A. No.5442/2024 has been filed on false pretext of marriage. Even bail was granted to the applicant on the same submission but in spite of that he has not performed marriage.

9. Be that whatever it may be.

10. One thing is clear that applicant is not intending to marry the respondent No.2. Accordingly, **I.A. No.5442/2024** is hereby **rejected**.

11. So far as merits of the case are concerned, it is clear that at the instance of applicant, respondent No.2/prosecutrix had left her job and went to Gujarat but even then applicant did not marry her. Therefore, for the purposes of this application, it appears that the intention of applicant right from day one was to physically exploit the prosecutrix and had no intention to marry her because if the prosecutrix went to Gujarat after leaving her job, then he had ample opportunity to marry her but that was not done. Even the bail was granted on the promise made by applicant that he would marry the prosecutrix but still the applicant did not marry.

Even in I.A. No.5442/2024, it is merely mentioned that applicant is willing to marry but his conduct clearly shows that he has no intention to marry her.

12. Under these circumstances, it cannot be held that because of failure on the part of the applicant to keep his promise the consent of prosecutrix was obtained by misconception of fact. On the contrary, it is clear that right from very inception the applicant did not have any intention to marry her and therefore, it is clear that he had obtained the consent of prosecutrix by misconception of fact. Therefore, in the light of Section 90 of IPC, consent of prosecutrix cannot be said to be a free consent.

13. Accordingly, no case is made out for quashment of FIR in Crime No.30/2024 registered at Police Station Budhni District Sehore.

14. The application fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

SR*

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