

**Court No. - 80**

**Case :-** APPLICATION U/S 482 No. - 9987 of 2024

**Applicant :-** Ram Bihari

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Prakash Chandra Pandey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vinod Diwakar,J.**

1. Short counter affidavit, filed by the learned counsel for the opposite party no.2, is taken on record.

2. Heard learned counsel for the applicant, learned counsel for the opposite party no.2, learned A.G.A. for the State-respondent and perused material on record.

3. This application u/s 482 Cr.P.C. has been filed with the prayer to quash the Criminal Case No. 0020 of 2021, titled as State v. Ram Bihari Rathore, arising out of Case Crime No.0017 of 2021, under Sections 323, 328, 377, 506 IPC and Section 3/4 of POCSO Act and Section 67-B of Information Technology Act, 2000, P.S. Kotwali, District Jalaun, pending in the Court of Additional District & Sessions Judge/Special Judge (POCSO Act), Jalaun at Orai.

4. Learned counsel for the applicant submits that dispute between the parties is related to money transaction. The father of victim had borrowed Rs.40,000/- from the applicant to purchase buffalo in the month of January-2021 with assurance to return the same within a period of next three months and it was also assured by the victim's father that he would provide 2 liters milk to the applicant everyday. He next submits that neither the borrowed money was

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returned nor the milk was provided and when the applicant demanded money, he was slapped with a criminal case by the victim's father.

5. The instant application has been filed on the basis of compromise entered into between the parties. The applicant's counsel submits that the matter has been compromised between the parties and affidavit of compromise has also been filed. Since parties have settled the dispute, opposite party no.2 does not want to proceed with the trial, and no fruitful purpose would be served by keeping the matter pending. Learned counsel has placed reliance upon the order dated 17.05.2022 and 09.08.2023, passed in Application u/s 482 No. 16800 of 2017, titled as Raja Kumar v. State of U.P. & Anr, and Application u/s 10747 of 2023, titled as Ram Bihari v. State of U.P. & Anr, by coordinate Benches of this Court, respectively. The aforesaid judgments were passed in different FIR's registered in S.T. No. 160 of 2013, under Section 377/511, 504, read with Section 3/4 of POCSO Act, 2012, at P.S. Madhavgarh, District Jalaun and Case Crime No. 0020 of 2021, registered under Section 328, 377, 506 IPC read with Section 3/4 POCSO Act, and 67-B I.T. 2000, at P.S. Kotwali-Konch, District Jalaun.

6. *Per-contra*, learned A.G.A. and learned counsel for the opposite party no.2 have opposed the application and submits that there are serious allegations of committing unnatural sex by the applicant with a boy aged about 16 years and drawn the attention of the Court to the statement recorded under Section 164 Cr.P.C. He next submits that the similar allegation has also been alleged by different victims against the applicant in the cases referred herein above. It is correct that the aforesaid two FIRs have been quashed

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on the basis of compromise, but compromise in the instant case would amount to plea bargaining which is impermissible in India. If the instant FIR is quashed, a wrong signal would go to the society and it will encourage the applicant to exploit many more innocent children.

7. On perusal of the statement, recorded under Section 164 Cr.P.C., it transpires that the victim was 16 years old at the time of the registration of FIR and the applicant had been exploiting the victim for the last three years, means when the victim was then only 13 years old. The first incident of unnatural sex was committed upon the victim by giving the sedatives in cold drink and the applicant recorded the act on his mobile phone, thereafter the child was blackmailed for next three years by threatening the victim to viral the video in case the victim would not compromise. The victim was also scolded, thrashed and given beatings by the applicant.

8. Section 3 of Protection of Children from Sexual Offences, Act, 2012 deals with penetrative sexual assaults and if the accused penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person, whereas Section 4 provides for the punishment who commits penetrative sexual assault shall be punished with imprisonment of either description for a terms which shall not be 10 years but which may extend to imprisonment for life and shall also be liable to fine. And if child is below 16 years of age shall be punished with imprisonment not less than 20 years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder for natural life of that person.

9. Sexual offenses against children are among the most heinous

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crimes, leaving deep and lasting scars on the victims. The psychological effects of such trauma are profound and multifaceted, impacting a child's mental health, emotional stability, and social interactions and affect every aspects of their lives. The trauma can lead to a cascade of emotional, behavioral, and social problems that persist well into adulthood.

10. The victim's 164 Cr.P.C. statement suggests that he was put to unnatural sex by the applicant when he was 13 years old and the victim mustered courage to register FIR against the applicant only after three years because of fear of exposure to the society, as the applicant had recorded the incident in his mobile phone and has physically assaulted. The offense is serious and repercussions are writ large on the psychology and behaviour pattern of the child, additionally, if the allegations are proved then the applicant may be awarding life imprisonment up to natural life. The applicant is a serial sodomist and was found involved in two other separate and distinct cases, therefore, keeping in view the severity of the punishment and menace of exploitation of child by the resourceful person, this Court do not find any force in the applicant's case even though two distinct and separate case of similar nature are quashed by the coordinate Bench on the basis of compromise.

11. Based on the foregoing discussion, the application is devoid of merits and hence, ***dismissed***.

**Order Date :-** 23.7.2024

A. Tripathi

**Justice Vinod Diwakar**