

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE ANAND PATHAK
ON THE 22nd OF DECEMBER, 2023
MISC. CRIMINAL CASE No. 51530 of 2023**

BETWEEN:-

.....APPLICANT

(BY SHRI MOHIT BHADORIYA - ADVOCATE)

AND

.....RESPONDENTS

(BY SHRI RAJEEV UPADHYAY - PUBLIC PROSECUTOR)

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

ORDER

With consent heard finally.

1. The present petition under Section 482 of Cr.P.C. has been filed by the petitioner seeking quashment of FIR registered at Police Station Chinnore, District Gwalior vide Crime No.23/2017 for the offence punishable under Sections 363, 366, 376 of IPC and Section 5/6 of POCSO Act and further consequential proceedings arising out of it, on the basis of compromise arrived

at between the parties.

2. From perusal of facts and circumstances of the case, it appears that FIR was registered on 13.02.2017 at the instance of father of the prosecutrix for offence under Section 363 and 366 of IPC. On said complaint, case was registered and search was made for girl. Incident was of 13.02.2017. Her statement under Section 164 of Cr.P.C. was recorded and charge sheet was filed. Now petitioner and prosecutrix married to each other and prosecutrix is living in her household peacefully.

3. Meanwhile, it appears that it is a case where both married to each other and entered into wedlock and now prosecutrix is living with her husband since 2017. Both the parties expressed their desire to settle the matter because girl and boy 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 consequential criminal proceedings arising out of it.

4. 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. Today also both the parties wanted to settle the matter and they do not want to prosecute the case.

5. Specific query being made by this Court and it was found that both the parties are living peacefully as married couple and they are blessed with three children. Petitioner/accused and respondent No.2 are also ready to bury the hatchet, if any.

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

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

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

9. This is a case where petitioner and respondent No.2 shared emotional and physical proximity. At the instance of father of prosecutrix, case was registered against petitioner but statement under Section 164 of Cr.P.C. indicate that both the parties shared the proximity by mutual consent. She 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 because her age was 16 years but later on she attained majority and thereafter prosecutrix and accused entered into wedlock.

10. Although, it is the submission of learned counsel for the parties that petitioner-husband and respondent No.2/wife are living together as married couple under one roof, now there is no dispute left between the petitioner and respondent No.2. They have three children out of the wedlock. Both the parties earlier appeared before Principal Registrar of this Court on 14.12.2023 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. They have been blessed with three children. 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. Considering the facts and circumstances of the case I.A.No.21039/2023 and I.A. No.21040/2023 are hereby allowed and parties are permitted to enter into compromise.

15. 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 23 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 164 Cr.P.C. indicate so.

(iii) Petitioner and prosecutrix entered into wedlock and are blessed with three children 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) Today, they expressed their desire to settle the matter. 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.

16. Resultantly, petition stands **allowed** and FIR No.23/2017 registered

at Police Station Chinnore, District Gwalior for the offence punishable under Sections 363, 366, 376 of IPC and Section 5/6 of POCSO Act and further consequential proceedings arising out of it stand quashed. 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.

17. Petition stands allowed and disposed of.

Vishal

**(ANAND PATHAK)
JUDGE**

