

1

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE ARUN KUMAR SHARMA
ON THE 31st OF MARCH, 2023
MISC. CRIMINAL CASE No. 60949 of 2022**

BETWEEN:-

**AMIT KEWAT S/O SHRI JAGDISH PRASAD KEWAT,
AGED ABOUT 22 YEARS, OCCUPATION: RETIRED
EMPLOYEE SHANTA MATA MANDIR KE PAS NEW
KANCHAN PUR ADHARTAL JABALPUR (MADHYA
PRADESH)**

.....APPLICANT

(BY SMT. ANCHAN PANDEY - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION ADHARTAL DISTRICT
JABALPUR (MADHYA PRADESH)**
- 2. PROSECUTRIX (VICTIM A) S/O NOT MENTION
NOT MENTION (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI AMIT GARG - PANEL LAWYER FOR RESPONDENT NO.1 / STATE)

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

ORDER

This petition under Section 482 of the Code of Criminal Procedure has been filed by the applicant for quashing of the criminal proceeding pending against him in criminal case bearing SC No.129/2021 for the offences punishable under Sections 363, 366, 376 (2) (n) of the IPC and Sections 7, 8, 5 (l) and 6 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act, 2006 arising out of FIR bearing Crime No.1037/2021, dated 29.06.2021,

registered at Police Station- Adhartal, Jabalpur, District Jabalpur, on the instance of respondent no.2.

This petition has been filed on the ground that the applicant and respondent no. 2 - prosecutrix, both have performed marriage with each other and they have blessed with one girl child, aged about 10 days approx. They are interested to lead a happy marriage life. They jointly filed a compromise application before the trial court in the matter voluntarily without any fear and pressure but as the offences are non-compoundable trial court has rejected the application and keep continuing the proceedings against the applicant.

As per the order of this Court dated 23-03-2023, willingness and consent of the parties have been recorded before Registrar (J-II) dated 23.03.2023. Both were present in person. They have been identified by their respective I.D. Both parties submit that they are residing under the same roof together and intended to live together forever. Respondent no. 2 - prosecutrix has candidly stated that she wants to withdraw the complaint filed against the applicant and she does not want to continue the proceeding pending against him in the Court of Special Judge (POCSO) Jabalpur in SC case no. 129/2021. In the light of the aforesaid factual position, it is apparent that the applicant and respondent no.2 have entered into compromise voluntarily without any fear, undue influence or pressure.

I have heard the contentions of learned counsel for the parties and perused the statements of both; applicant and the respondent no. 2-complainant and the report furnished by Registrar (J-II). On perusal of the same it is found that both the parties are interested to lead a happy marriage life and particularly respondent no. 2 who is now wife of the applicant does not want to continue the proceedings against the applicant.

It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason to refuse exercise of its power under Section 482 Cr.P.C. That power can in my opinion be exercised in cases where there is no chance of recording a conviction against the accused like applicant and the entire exercise of a trial is destined to be an exercise in futility. In the peculiar facts and circumstances of the case, no purpose will be served by keeping the proceedings pending where the chances of recording of conviction against the application for the alleged offences are totally bleak. The continuation of criminal proceedings would tantamount to abuse of process of law.

In view of above peculiar facts and circumstances of the case in hand, this petition stands allowed and criminal proceeding pending against applicant in criminal case bearing SC No.129/2021 for the offences punishable under Sections 363, 366, 376 (2) (n) of the IPC and Sections 7, 8, 5 (l) and 6 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act, 2006 arising out of FIR bearing Crime No.1037/2021, dated 29.06.2021, registered at Police Station- Adhartal, Jabalpur, District Jabalpur (MP) are hereby quashed and the applicant is discharged from the alleged offences.

A copy of this order be sent to the concerned trial court for information and its compliance.

Certified copy as per rules.

(ARUN KUMAR SHARMA)
JUDGE