

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.864 OF 2024

1) Dnyaneshwar S/o Vishnu Surywanshi,
Age-34 years, Occu:Agriculturist,

2) Akash S/o Shamrao Lature,
Age-27 years, Occu:Agri.,

Applicant Nos.1 and 2 Both:
R/o-Jamalpur, Taluka-Ausa,
District-Latur.

...APPLICANT

VERSUS

1) The State of Maharashtra,
Through Police Inspector,
Police Station, AUSA,
Taluka-AUSA, District-Latur,

2) X. Y. Z.

...RESPONDENTS

...
Mr. S.S. Thombre Advocate for Applicants.
Ms. Rashmi P. Gour, A.P.P. for Respondent No.1 – State.
Mr. Vishweshwar H. Pathade Advocate for Respondent No.2
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE OF RESERVING ORDER : 17th JUNE 2025

DATE OF PRONOUNCING ORDER : 30th JUNE 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed for quashing the proceedings in S.C. No. 55 of 2023, pending before the learned Additional Sessions Judge, Latur, arising out of the First Information Report (for short "the FIR") vide Crime No. 40 of 2023, registered with Police Station, AUSA, Taluka-AUSA, District-Latur for the offence punishable under Sections 376-D, 366, 354-A, 323, 506 read with Section 34 of the Indian Penal Code.
2. Heard learned Advocate Mr. Thombre for applicants, learned APP Ms. Gour for respondent No.1 – State and learned Advocate Mr. Pathade for respondent No.2
3. Learned Advocate for the applicants as well as respondent No.2 submits that now there is a compromise between respondent No.2 and the applicants. Affidavit has been filed by respondent No.2 - informant stating that the applicants and respondent No.2 are close friends and having friendly relations since long but due to misunderstanding she had filed the FIR. The compromise has taken place with the intervention of

relatives and elderly persons from the society. They have decided to end the dispute and maintain good relations between them and on that count they prayed for quashment of the proceedings and the FIR.

4. At the outset, it is to be noted that the offence that was registered was under the category of heinous crime and therefore, a compromise at a later stage will have to be scrutinized minutely. Merely because the informant is now giving consent for quashment of the proceedings, this Court cannot use its powers under Section 482 of the Code of Criminal Procedure in favour of the applicants.

5. Respondent No.2, who is 32 years old married lady, having two children, had lodged the FIR with the story that her family has agricultural land in village Jamalpur. She was proceeding on tar road from Khuntegaon to Jamalpur around 2.00 to 2.30 p.m. on 25th January 2023, by walk. A black coloured car came near her and a car driver asked her as to where the road goes. She answered that it goes to Khuntegaon. The person who was sitting on the rear seat of the car had thrown something on the face of the informant and as a result of which she felt giddiness

and she could sense that the person seating on the rear seat of the car had dragged her inside the car. The person had covered his face with a handkerchief, but then when he took out the handkerchief, she could identify him as applicant No.1 who was from her village. He made her to lie on the rear seat of the car and by manhandling her, he was soliciting sexual favour from her. He also assaulted her on her face, as a result of which she suffered mucosal lacerated wound to her lips. Thereafter she was made to consume some red colour liquid from a bottle and then she was only able to sense the movements made with her body. She was taken at Akshay lodge in village AUSA around 3.10 p.m. She was taken to a room on the third floor where applicant No.1 had forcible intercourse with her. When she resisted, there was quarrel between applicant No.1 and herself. At that time lodge owner had come to the room and she could be saved. But around 4.30 p.m., applicant No.1 had brought her down and by making her to seat in the car, took her towards Latur. In between the vehicle stopped and applicant No.1 was saying, why she is unable to understand that he cannot live without her. After taking to Latur, she was left on the road by giving threats to kill if she discloses anything to her family. She went to Laxmi Hospital for treatment and by taking mobile of a person in the

hospital, she gave phone call to her husband. She had sustained injuries. Along with her husband, she went home on that day, but on the next day she lodged the FIR. Her supplementary statement has been recorded on 6th March 2023 and at that time she disclosed that the name of the car driver which she came to know as Akash Shamrao Lature i.e. applicant No.2.

6. Here, we are required to consider the material in the charge-sheet. Statement of the lodge owner has been recorded and he confirms that on 25th January 2023, around 4.00 p.m., he heard the voice of crying of a lady from a room, therefore, he knocked the door. He found that the lady and the man were not wearing any clothes but the lady had taken a cloth around her body. He asked as to why the lady is crying and then the man told that there was quarrel between them. He assured that they will not quarrel and therefore, the lodge owner went but again he heard the cries of the lady within five minutes. Again he went to the room and the door was opened by applicant No.1. The lodge owner again told him that they should not quarrel. He abused them and asked them to vacate the room by wearing clothes. He told that as a lady had sustained injury to her mouth, the stains of the blood had fallen on the tiles of the

room. In the spot panchnama, the blood stains have been collected. There is a statement of lodge manager also. The manager says that when applicant No.1 had come for booking the room, he gave his identity card and when the manager asked the name of the lady, at that time applicant No.1 gave different name. He also confirms about the quarrel that had taken place between applicant No.1 and respondent No.2. There is also statement of one Ayub Pathan, who is owner of the back coloured car. He states that both the applicants had come to him around 1.00 p.m., on 25th January 2023 and they had taken his car on the pretext that they they want to bring grocery articles from Latur.

7. Thus, there appears to be prima facie evidence and now respondent No.2 states that she as well as the applicants are the close friends and they are having friendly relations since long. Now the quashment of the FIR and the proceedings has been stated to be on the ground of misunderstanding in lodging the FIR. The misunderstanding cannot be to the extent of lodging the FIR in respect of committing rape on her. The real terms of compromise have not been brought on record. There is absolutely no statement that the contents of the FIR are

correct, however, she wants to forgive the applicants for whatever reasons. The terms of compromise are unacceptable for quashing the FIR and the proceedings. Of course we are aware that the possibility of respondent No.2 turning hostile during the trial cannot be ruled out. But the trial Court would then be equipped with the powers to take action for perjury against respondent No.2. Such type of compromises are not in the interest of the society. It would be then easy for the accused persons to get the consent of such informants by putting pressure or using money power. The applicants/accused cannot be allowed to play with the law and therefore, we do not find this to be a fit case where we can exercise our powers under Section 482 of the Code of Criminal Procedure.

8. The Application stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JUNE25