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MCRC-7186-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 16th OF JUNE, 2026MISC. CRIMINAL CASE No. 7186 of 2025*ABHISHEK YADAV**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

*Shri Bhagwan Singh Thakur - Advocate for applicant.**Shri Vijay Kumar Shukla - Panel Lawyer for the State.**The complainant/respondent No.2 is present in person.*

ORDER

This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been preferred by the applicant seeking exercise of the inherent jurisdiction of this Court for quashment of FIR No.52/2024 dated 06.02.2024 registered at Police Station Belbag, District Jabalpur for offences punishable under Sections 376 and 506 of the Indian Penal Code and the consequential proceedings of Sessions Trial No.202/2024 pending before the Court of VIIIth Additional Sessions Judge, Jabalpur.

2. As per the case set up in the petition, the applicant is a Government servant having no criminal antecedents and is maintaining his aged mother, divorced sister and minor niece. It is averred that during the pendency of matrimonial proceedings between the applicant and his wife at Kota, Rajasthan, he came in contact with respondent No.2, who represented herself to be a practising advocate. According to the applicant, respondent No.2 initially offered professional assistance in connection with his matrimonial dispute and gradually developed personal relations with him. It is alleged that respondent No.2 visited Jabalpur on



15.11.2022 along with one Lokendra, introduced as her brother, and during the said visit several photographs were taken at various tourist places including Bhedaghat and Bargi Dam. The applicant has relied upon photographs filed as Annexure A/1.

3. It is further alleged that respondent No.2 thereafter insisted upon marriage with the applicant despite being aware that his matrimonial dispute was still pending. According to the applicant, upon his refusal, respondent No.2 started extending threats and ultimately lodged a false complaint. Reliance has been placed upon representations submitted by the applicant and his family members to various authorities, including representations dated 07.12.2022, 27.02.2023 and 16.05.2023 filed as Annexures A/2, A/3 and A/4 respectively. The applicant contends that respondent No.2 had earlier also implicated other persons in criminal cases and that the present prosecution is an abuse of the process of law.

4. Learned counsel for the applicant submitted that the alleged incident is stated to have occurred on 16.11.2022 whereas the complaint was lodged only on 06.02.2024 after an unexplained delay of nearly fifteen months. It is contended that the delay itself creates serious doubt about the prosecution story. It is further argued that there are material contradictions between the written complaint (Annexure A/5), the statement under Section 161 Cr.P.C., the supplementary statement and the statement recorded under Section 164 Cr.P.C. It has also been submitted that the call detail records, forensic report and medical evidence do not support the allegations levelled by respondent No.2.

5. Learned counsel further contended that the applicant had filed applications under Sections 61 and 63 of the Bharatiya Sakshya Adhiniyam, Section 94 of the Evidence Act and Section 250 of BNSS before the trial Court, but the same were rejected without proper consideration. It is argued that the order framing charge



dated 18.12.2024 (Annexure A/10) was passed mechanically and without due application of mind. On the strength of these submissions, it is prayed that the FIR as well as the entire criminal proceedings be quashed.

6. Per contra, learned Public Prosecutor appearing for the State opposed the petition and submitted that the FIR discloses commission of cognizable offences and after due investigation a charge-sheet has been filed before the competent Court. It is submitted that the trial Court, upon consideration of the material collected during investigation, has found sufficient grounds to frame charges.

7. The respondent No.2/complainant opposed the petition and submitted that the FIR discloses commission of serious cognizable offences and that, after due investigation, the police has filed the charge-sheet against the petitioner. It is contended her statements recorded under Sections 161 and 164 Cr.P.C. clearly support the allegations made in the FIR and disclose a prima facie case for offences punishable under Sections 376 and 506 of the IPC. It is further submitted that respondent No.2 possesses a degree in law and was working under a senior advocate at Kota, Rajasthan. She clarified that although she is a law graduate, she is not an independently practising advocate. According to her, she had become acquainted with the applicant in connection with his child custody dispute and had visited Jabalpur at his request, where the applicant committed sexual assault upon her. She argued that the contradictions sought to be highlighted by the applicant are either insignificant or relate to disputed questions of fact which can only be adjudicated after appreciation of oral and documentary evidence during the course of trial. It is contended that the defence raised by the applicant cannot be examined in proceedings under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the inherent jurisdiction of this Court is required to be exercised sparingly and only in exceptional circumstances. She further submits that she is already



involved in matrimonial disputes with her husband, who, according to her, is acting in collusion with the present applicant to pressurize and harass her. It is, therefore, prayed that the petition be dismissed, leaving all disputed questions of fact to be adjudicated by the trial Court on the basis of evidence led by the parties.

8. Heard and perused the case diary.

9. The scope of interference under Section 528 of the BNSS is undoubtedly limited. Ordinarily, this Court does not embark upon appreciation of evidence or adjudication of disputed questions of fact while exercising its inherent jurisdiction. However, where the material collected during investigation itself demonstrates that continuation of criminal proceedings would amount to abuse of the process of the Court or where the prosecution is inherently improbable and does not disclose the commission of the alleged offence, this Court is not powerless to exercise its inherent jurisdiction to secure the ends of justice.

10. The principal allegation against the applicant is that he established physical relations with the prosecutrix on the false promise of marriage and thereafter threatened her. The material collected by the prosecution reveals that the prosecutrix, in the written complaint as well as in her statement recorded under Section 164 Cr.P.C., specifically described herself as an advocate practising at Kota, Rajasthan. She further stated that she had come to Jabalpur in connection with the child custody litigation of the applicant in her professional capacity. However, during the course of hearing before this Court, respondent No.2 categorically admitted that she is not a practising advocate. She stated that although she possesses a law degree and was working under a senior advocate at Kota, Rajasthan, she was not practising independently as an advocate. This admission strikes at the very foundation of the prosecution story.



11. The complaint as well as the statement under Section 164 Cr.P.C. were premised upon the assertion that the prosecutrix came to Jabalpur in discharge of her professional engagement as an advocate representing the applicant. The said assertion constituted the genesis of her acquaintance with the applicant. Once the prosecutrix herself admits that she was not a practising advocate, the very basis on which she claims to have established contact with the applicant becomes demonstrably false. Such a material improvement cannot be treated as a minor discrepancy or omission. It goes to the root of the prosecution case and renders the foundational version highly doubtful.

12. The Court has also examined the material collected during investigation. The medical examination of the prosecutrix does not disclose any external or internal injury suggestive of forcible sexual intercourse. More importantly, the medical expert has not expressed any definite opinion regarding recent sexual intercourse. Though absence of injuries by itself may not be decisive in every prosecution under Section 376 IPC, the medical evidence in the present case does not lend any corroboration whatsoever to the allegations levelled by the prosecutrix.

13. The prosecutrix further alleged that intoxicating or stupefying substances were administered to her before commission of the alleged offence. However, the investigation has not collected any forensic or scientific material indicating the presence of any toxic or intoxicating substance in her body. No chemical examination or forensic report supports the allegation of administration of any intoxicant. Thus, this allegation also remains wholly unsubstantiated.

14. Another serious allegation made by the prosecutrix was that the applicant had prepared obscene videos of her and used the same for intimidation. Ordinarily, such an allegation is capable of objective verification through electronic evidence. However, despite investigation, no mobile phone, storage device, electronic



record, cloud data or any other digital evidence containing such alleged obscene video has been recovered. There is absolutely no material indicating existence of any electronic record of the nature alleged by the prosecutrix. In absence of recovery of any electronic record or digital evidence, the allegations relating to creation or transmission of obscene videos remain unsupported by any material collected during investigation. The prosecution has also not registered any offence under the I.T. Act.

15. The prosecution has also failed to explain satisfactorily why, despite the alleged incident having taken place on 16.11.2022, the complaint came to be lodged only on 06.02.2024 after a delay of nearly fifteen months. Though delay in lodging an FIR in cases of sexual offences is not by itself fatal, where such delay is coupled with material inconsistencies touching the very genesis of the prosecution case and absence of corroborative medical, scientific and electronic evidence, the cumulative effect cannot be ignored while considering whether continuation of prosecution would amount to abuse of the process of law.

16. This Court is conscious of the settled principle that at the stage of considering a petition under Section 528 BNSS, the Court does not conduct a mini trial. Nevertheless, where the prosecution version suffers from inherent improbabilities arising from the complainant's own admissions and where the foundational facts stand demolished by the material available on record, compelling the accused to undergo a full-fledged criminal trial would itself amount to misuse of the criminal process. The admission made by respondent No.2 before this Court that she was not a practising advocate completely belies her categorical assertions contained in the written complaint as well as in the statement recorded under Section 164 Cr.P.C. that she was practising as an advocate at Kota and had visited Jabalpur in that professional capacity to pursue the applicant's child



custody litigation. This contradiction is not peripheral but goes to the very genesis of the relationship between the parties. Coupled with the absence of medical corroboration, absence of forensic evidence regarding administration of intoxicating substances, non-recovery of the alleged obscene videos and absence of any electronic evidence supporting the allegations, this Court is satisfied that continuation of the criminal proceedings would be nothing but an abuse of the process of law.

17. The inherent jurisdiction under Section 528 BNSS exists precisely to prevent such abuse and to secure the ends of justice. The facts of the present case fall within the exceptional category warranting interference by this Court.

18. Consequently, the petition deserves to be and is hereby allowed. FIR No.52/2024 dated 06.02.2024 registered at Police Station Belbag, District Jabalpur for offences punishable under Sections 376 and 506 of the Indian Penal Code and all consequential proceedings arising therefrom, including Sessions Trial No.202/2024 pending before the Court of VIIIth Additional Sessions Judge, Jabalpur, are hereby quashed. The applicant stands discharged from the aforesaid criminal proceedings. It is, however, made clear that the observations made herein are confined to the adjudication of the present petition under Section 528 BNSS and shall not be construed as an expression on any other civil or criminal proceedings, if any, between the parties.

The petition stands *allowed*.

(HIMANSHU JOSHI)
JUDGE