

# Jitesh Pawar vs The State (Nct Of Delhi) & Anr on 30 August, 2022

**Author: Yogesh Khanna**

**Bench: Yogesh Khanna**

\$~20

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CRL.M.C. 2186/2021  
JITESH PAWAR

Through: Mr.R.K.Tarun, Mr.Rohit  
Mr.Abhay Solanki,  
petitioner.

versus

THE STATE (NCT OF DELHI) & ANR.

Through: Mr.Amit Sahni, APP for  
with SI Net Ram, P  
Mr.D.K.Pandey, Adv  
with R2/complainan

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA  
ORDER

% 30.08.2022

1. Petitioner files this petition for quashing of the FIR No.184/2018 under Section 376/420 Indian Penal Code registered at police station Subzi Mandi against him and the proceedings emanating therefrom.

2. In the year 2011, father of the petitioner and of respondent No.2 became professional friends and both started investing in joint ventures. On 01.12.2016, the father of the respondent No.2 expired. In June 2018 misunderstanding arose between the petitioner and respondent No.2 with regard the joint investment made by their fathers, thus, on 24.06.2018, present FIR was registered on the complaint of respondent No.2 under Section 376/420 IPC and Section 3/4 of the Dowry Prohibition Act against the petitioner herein as also against his father.

3. In the FIR it is stated both petitioner and respondent No.2 were engaged by their family members and their ring ceremony was fixed for 06.03.2016, but later there was demand of dowry of Rs.15.00 Lacs in cash and 1.5KG gold, made to the father of respondent No.2 by the petitioner which led to postponement of the ring ceremony as well as their marriage. However, the petitioner and respondent No.2 continued to meet each other ever after postponement of their marriage and various incidents occurred when the petitioner pressed the breast and inserted his finger in vagina of respondent No.2. Later respondent No.2 came to know the marriage of petitioner was fixed elsewhere for 01.07.2018 and parents of petitioner had refused to marry him with respondent No.2, hence she lodged the complaint that on the pretext of marriage the petitioner had committed rape

upon her.

4. The prosecutrix had also given statement under Section 164 Cr PC supporting her version as mentioned in the FIR. However, later the alleged misunderstanding between the two was removed and she made statement to this extent before the learned Trial Court while deposing as PW1 in her cross-examination. Though the respondent No.2 had supported the case of prosecution in the examination in chief, but turned hostile in her cross- examination conducted on 11.07.2022. Her cross-examination is as under:-

Q Whether the alleged act complained of against the accused in this case, was done by the accused at any point of time and whether the alleged acts continued even after the demise of your father? What do you have to say? Ans. No. No such alleged incident ever took place and there was some misunderstanding. Accused has not committed the alleged incident against me at any point of time before or after the demise of my father.

Q. I put to you that you had falsely deposed in your examination-in- chief recorded on 27.03.2019 that "I went to GIP Mall, Noida with accused for a movie on 27.03.2019. During the movie session, accused Jitesh came closer to me and touched me at my chest. He also touched my private part by inserting his hand. Witness with the help of counsel for DCW has explained "Jitesh ne meri gavina mei apni ungli dali". I had objected to not to do such thing. Accused told me that he is going to be married with me and he is going to be my husband and there is nothing wrong in it. Thereafter, 3-4 times, accused Jitesh took me to said GIP Mall, Noida. We watched movie and during the movie session, accused always used to touch me inappropriately on my chest and inserted his finger in my vagina. But no sex was done" What do you have to say?

Ans. It is correct that no such incident took place as deposed by me in aforesaid testimony dated 27.03.2019. There was miscommunication and misunderstanding on this part of my testimony recorded on 27.03.2019. At this stage, Ld. Additional PP seeks permission to re- examine the witness.

Heard. Allowed.

Q I put to you whether your complaint Ex.PW1/A and your statement under Section 164 Cr PC before the learned MM, Tis Hazari Courts, Delhi Ex.PW1/C as well as during your deposition in Court recorded on 27.03.2019 is true or your testimony recorded today. What do you have to say? Ans. My statement given by me today before the Court is correct.

At this stage, Ld. Additional PP seeks permission to cross-examine the witness as witness has turned hostile.

Heard. Allowed.

Xxxxxn by Sh. A.B.Asthana, Ld Addl.PP for the State. It is wrong to suggest that I had correctly mentioned true facts in my complaint Ex.PW1/A and statement recorded under Section 164 Cr P C before the Ld. MM, Tis Hazari Courts, Delhi Ex.PW1/C as well as during my deposition in the Court recorded on 27.03.2019. (Vol. Due to unfortunate demise of my father, I was in a state of shock.) it is wrong to suggest that today I am deposing falsely being won over by the accused or that I have compromised with accused.

5. The learned counsel for petitioner has referred to annexure P-5, MOU dated 20.02.2021 executed between the parties wherein it is stated they have sorted out their misunderstanding between each other in respect of the money invested by her deceased father in joint venture with father of the petitioner herein and she had lodged the FIR in a state of shock because of demise of her father, hence with the intervention of well wishers the good sense prevailed upon her and she agreed to settle the matter. She has also filed the supporting affidavit to this petition and contents thereof are as under:-

3. That I gave my statement which later got converted into the FIR No.184/2018, PS Subzi Mandi, Delhi, under Section 376/420 IPC and Section 3/4 of the Dowry Prohibition Act, however the deponent humbly submits that the abovementioned Complaint was lodged due to the misunderstandings created by some unscrupulous persons pertaining to transactions between my late father and the father of the present petitioner and upon intervention of family friends and well wishers, the parties herein have agreed upon settling the present matter amicably.

4. That the Deponent tenders her unconditional apology to this Hon'ble Court and humbly submits that the deponent was in an utter slate of shock due to the untimely demise of her Father and taking advantage of her said condition, some unscrupulous persons poisoned her ears against the Petitioner and his Father, as a result of the same, the present Complaint came into existence against the Petitioner herein.

5. That the Petitioner and his family members after coming to know about my traumatic experience, have helped my entire family and me in our difficult times and have looked after us after the loss of my Father and have been like a fatherly figure whenever the need arose.

6. That accordingly the present settlement is being arrived so that the rigmarole of trial does not affect the cordiality between the parties to the present Petition, which will be difficult to sustain if the litigation between the parties is not put to a quietus.

7. That as already stated that the father of the Petitioner after coming to know about the degenerative effects of the demise of the father of the Deponent upon the deponent, has acted like a fatherly figure towards the Deponent, and the prolonged animosity is likely to hamper the future martial prospects of the Deponent.

8. That the petitioner has already married, and has even become a father, and accordingly the Deponent also wishes to leave behind the traumatic experiences undergone by her, and enter a new phase of her life, which will be difficult in the wake of prolonged animosity between the parties.

9. That I am arriving at this settlement out of my own free will, without any coercion, pressure or duress from any quarter whatsoever and my above statement is true and correct.

6. In Permanand Mishra & Another vs The State of NCT of Delhi & Another Crl.M.C.No.3076/2021 decided on 05.08.2022 in similar circumstances the FIR No.24/2018 under Section 376/313/354 IPC registered at police station Moti Nagar was directed to be quashed.

7. Further in Mandar Deepak Pawar vs. The State of Maharashtra in CRL.A.442/2022; Anand D.V. vs. State & Anr. in CRL.A.Nos.394- 95/2021; Ganesh Shankar Pilane vs. The State of Maharashtra and Anr. in W.P.(CRL.)272/2022; Manteshwar Hanumantrao Kattimani vs. State of Maharashtra and Anr. 2016 SCC OnLine Bom 10581; and Capt. Simranjit Singh Sambhi vs. State (NCT of Delhi) and Anr. CRL.M.C.2960/2021 the Courts have exercised power under Section 482 CrPC to quash the proceedings under Section 376 IPC on the facts mentioned therein.

8. Similarly, in the present case considering the deposition viz her cross examination recorded on 11.07.2022 as also the contents of the MOU and her affidavit, I see no reason as to why same relief be not extended to the petitioner herein.

9. The complainant/ respondent No.2 is present today in Court, has been duly identified by the Investigating Officer, states the aforesaid FIR was lodged only because of the misunderstanding and now since the misunderstanding has been removed, she has no objection if the FIR is quashed. The learned APP for the State has also no objection, if this petition is allowed. The affidavits of parties are on record.

10. Looking at the narration of facts; the law discussed above; the nature of deposition of prosecutrix; withdrawal of allegations by her at different stages viz before the learned Trial Court as also before this Court, there is no use to continue with the proceedings against petitioner as it would never entail in conviction of petitioners and will be a sheer wastage of time.

11. Accordingly, the petition is allowed. Consequently, FIR No.184/2018 under Section 376/420 Indian Penal Code registered at police station Subzi Mandi and the proceedings emanating therefrom are quashed. Pending application, if any, also stands disposed of. No order as to costs.

YOGESH KHANNA, J.

AUGUST 30, 2022 M