

Divyesh Val Vs. State of Maharashtra

Divyesh Val Vs. State of Maharashtra

SooperKanoon Citation : sooperkanoon.com/1104083

Court : Mumbai

Decided On : Jul-31-2013

Judge : The Honourable Mrs. Justice Sadhana S. Jadhav

Appeal No. : Criminal Application No.807 of 2013

Appellant : Divyesh Val

Respondent : State of Maharashtra

Judgement :

P.C.

Heard.

2. The applicant is apprehending his arrest in C.R. No.168 of 2013 registered at Rafiq Kidwai Marg Police Station for the offences punishable under Sections 376 and 417 of Indian Penal Code. The complainant is present in-person and she has been given audience by this Court. It is the case of the complainant that she is a divorcee and she was working with the organization of Art of Living. She was working as an instructor. The applicant was also working with the said organization. They came in contact with each other. The acquaintance had developed into love. The complainant has alleged that the applicant had promised to marry her. She had faith in the applicant. Hence, they had also developed sexual intimacy. It is the case of the complainant that they were having sexual relations from May 2012 to March 2013. The complainant had insisted to marry

with him. He had only assured her that he will fulfill the promise but did not fulfill the same. Since 12th May 2013 he had started behaving indifferently with the complainant. She suspected his bonafides. She had tried her best to seek information about him but in vain. According to the Complainant, she had consented to have sexual relations with the applicant, subsequently he had refused to marry her and therefore she felt cheated and according to her, her consent cannot be taken into consideration.

3. On the basis of her report Crime No.168 of 2013 is registered at Rafiq Ahamed Kidwai Marg Police Station for the offence punishable under Section 376 and 417 of IPC. The complainant further submits that she had to gather courage to file the complaint against the applicant and she feels that he should be punished and sent to jail for the offences committed by him. It is an admitted position that the complainant is also a divorcee. The applicant was divorced in March 2013.

4. The Counsel for the applicant submits that the complainant was fully aware about the status of the applicant. He had no intention to cheat her. He had developed relation with her only after he was divorced. Learned Counsel for the applicant submits that the complainant is working as Inspector in Central Excise Department. She is 42 years old, whereas the applicant is 35 years old. There is vast difference in their age. It is further submitted that the relationship was based on mutual understanding and mutual consent. There was no element of promise to marry. The Counsel for the applicant has further submitted that the applicant may not totally deny the relationship which he had with the complainant. However it appears that they could not pull on and hence parted ways. He got remarried on 18th May 2013 with one Divya. Learned Senior Counsel has drawn attention of this Court to the fact that the applicant has got married on 18th May 2013 and the first information report was lodged on 06/06/2013 to ventilate the grievance. The complainant states before this Court that the looks of the applicant were so deceptive that she was bound to believe that he would marry her. The learned counsel for the applicant submits that he is no more working with the said organization i.e. Art of Living which is admitted by learned APP, therefore, there is no question of tampering evidence. The applicant is working in a private company, whereas the complainant is a Government Servant, who is working as Inspector in

Central Excise Department. The fact that the complainant admits that she had consented for sexual relations, it cannot be inferred at this stage, that she was ravished by the applicant. The element of cheating can be considered at the trial after adducing substantive evidence.

5. In spite of sympathy with the complainant, the applicant cannot be sent to custody as it would not serve any fruitful purpose except to satisfy vendetta of the complainant. Be that as it may, for the above mentioned reasons, the applicant has made out a prima facie case for grant of pre-arrest bail. Hence order.

ORDER

Application is allowed.

I. In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

II The applicant shall report to RAK Marg Police station every Sunday between 10 a.m. to 12 noon till filing of the charge sheet.

II The applicant shall not tamper with the evidence. The application is allowed and disposed of.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com