

Amit Kumar Vs. State of Maharashtra and Another

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Court : Mumbai Nagpur

Decided On : Sep-16-2014

Judge : B.R. Gavai & V.M. Deshpande

Appeal No. : Criminal Application (APL) No. 564 of 2014

Appellant : Amit Kumar

Respondent : State of Maharashtra and Another

Advocate for Def. : Shri. Futane

Advocate for Pet/Ap. : Shri. Jaltare

Judgement :

Oral Judgment: (B.R. Gavai, J.)

1. Rule is made returnable forthwith. Heard the learned counsel for the parties finally by consent.
2. The applicant has approached this Court for quashing the FIR bearing No. 207 of 2014 for the offence punishable under Sections 328, 294, 507, 506(B) and 376(1) of the Indian Penal Code.
3. The applicant and Respondent No. 2 are both students of different Engineering Colleges in the city of Nagpur. Both, the applicant as also Respondent No. 2 are residents of different States. The applicant is the resident of Bihar whereas

Respondent No. 2 is the resident of Madhya Pradesh.

4. The FIR came to be lodged by Respondent No. 2 stating therein that when she was returning in a train from her native place, the applicant started talks with her and tried to develop intimacy with her and took her mobile number. It is further stated that thereafter they started meeting each other. It is further stated that one night in November 2013, she had gone to the residence of Amit and took dinner at his rented room. Thereafter she felt dizzy and on the next day when she woke up, she found that something has happened with her. She has further stated that the applicant has informed her that the applicant has taken her obscene video clippings and threatened her of uploading the same on internet and to defame her. She has further stated that the applicant has started sending filthy massages on her mobile. In this premise, FIR came to be lodged in the month of August 2014.

5. During the pendency of said proceedings, the matter has been amicably settled between the families of the applicant and Respondent No. 2. As such, they have approached this Court for quashing of the FIR. An affidavit has also been filed by Respondent No. 2 stating that the matter has been amicably settled between them and further stated that she does not want of proceed further with the FIR.

6. In the affidavit, it is further stated that after Respondent No. 2 met the petitioner in the train, he started meeting her frequently and also proposed to marry. She has stated that she was knowing the applicant as good student. She has further stated that they were exchanging their photographs on whatsapp. She further stated that however, her parents opposed the marriage. On marriage being opposed, the applicant started misbehaving with her parents. It is also stated that being enraged with such misbehaviour by the applicant, Respondent No. 2 has lodged the said FIR.

7. We have heard Shri Jaltare, learned counsel for the applicant, Shri Khubalkar, learned APP for respondent No. 1 and Shri Futane, learned counsel for respondent No. 2.

8. Shri Khubalkar, learned APP has vehemently opposed the criminal application. He submits that the law as laid down by the Hon'ble Apex Court in the case of

Madan Mohon Abbot vs. State of Punjab, reported in (2008) 4 SCC 582 and Gian Singh vs. State of Punjab and Anr., reported in 2012 (10) SCC 303, permits quashing of FIR when the dispute is purely private in nature. The learned APP states that the offence under Section 376 of IPC cannot be said to be a private dispute inasmuch as the offence is against the society at large. The learned APP, therefore, submits that the application deserves to be dismissed.

9. No doubt that the offence under Section 376 of the IPC cannot be said to be a private dispute between the two parties. It is very much an offence against the society. However, it can be seen from the facts of the present case that Respondent No. 2 has herself admitted that she was engaged in a relationship with the applicant and both of them desired to marry. However, as her parent opposed the marriage, the applicant had started behaving in a rude and unruly manner with her parents. It is further stated that since the applicant did not show any improvement, she was compelled to lodge the FIR.

10. We have personally interviewed respondent No. 2 and her father, who is an employee with Coal India Limited and the father of the applicant, who is an agriculturist in Bihar State. We could not interview the applicant as he is lodged in Central Prison as an under-trial prisoner.

11. It is a settled principle of law that the offence under Section 376 of IPC is not a private dispute and is an offence against the society. However, it can be seen in the present matter that respondent No. 2 has herself stated on an affidavit that the FIR was lodged since she was enraged due to the behaviour of the applicant. She has also admitted the intimacy and relationship between the two. It is to be noted that both the applicant as well as respondent No. 2 are the students of Engineering College and are aged 21 years and 19 years respectively. Respondent No. 2 is, therefore, of the age of understanding as to what is right and what is wrong for her. The reference can be made to the judgments of the Apex Court in the case of S. Varadarajan vs. State of Madras, reported in AIR 1965 SC 942 and Shiji alias Pappu and Ors. vs. Radhika and Anr., reported in 2012 Cri. L.J. 840. Respondent No. 2 has stated before us that the FIR was lodged by her as she was enraged with the applicant. She has stated that taking into consideration

her future career and future life of the applicant as well as herself and in view of the settlement arrived at between their parents that the applicant would not again disturb or threaten the applicant or her parents, she has decided to give an end to the criminal litigation. It can also be seen that even if in the present case, we permit the trial to go on, it will lead to nothing else but the acquittal. However, if the trial proceeds, it will result in nothing but adding to turmoil in the life of respondent No.2. Both the families have now, therefore, approached this Court for settling the issue. Both of them are undergoing education of Engineering. The rigour of trial would have an adverse impact on their educational career also. In that view of the matter, we find that in view of the facts and circumstances of the present case, it is a fit case for exercising the powers under Section 482 of the Code of Criminal Procedure and to give an end to the criminal litigations between the applicant and respondent No.2.

12. The gainful reference can be made to the unreported order dated 22.02.2010 passed by the Apex Court in the case of Arun Goyal vs. State of NCT of Delhi and Anr. in SLP (Cr) No.2900 of 2009 and the judgment of the Division Bench of this Court in the case of Rahulsingh Balbirsingh Sengar vs. State of Maharashtra and Anr., reported at 2014 ALL MR (Cri) 2889.

13. In the circumstances, Criminal Application is disposed of. Rule is made absolute in terms of the prayer clause in the application. No order as to costs.

14. Needless to state that since the proceedings have been dropped, the applicant be set at liberty forthwith, if not required in any other crime.

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