

Kajal Sarkar vs.state

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Court : Delhi

Decided On : Oct-24-2017

Appellant : Kajal Sarkar

Respondent : State

Judgement :

\$~ * % + IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment Reserved on:

15. 09.2017 Judgment Pronounced on:

24. 10.2017 W.P (CRL.) 1999/2017 KAJAL SARKAR

... Petitioner

Through: Mr. Mukul Gupta, Senior Advocate with Mr.Tushar Gupta & Mr.Sanjiv Joshi, Advocates. versus STATE Respondent Through: Mr. Ashish Aggarwal, ASC for the State with Mr. Piyush Singhal, Advocate with SI Varun, PS Hauz Khas, Delhi. CORAM: HON'BLE MR. JUSTICE VINOD GOEL VINOD GOEL, J.

1. The petitioner has invoked the writ jurisdiction of this court under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short Cr.PC) for quashing of the FIR bearing No.690/2016, registered against him on 06.11.2016 with Police Station Hauz Khas, South Delhi, Delhi, under Section 307 of the IPC and Sections 25/27/ of the Arms Act, 1959.

2. The respondent no.2 and respondent no.3 while studying in a college at Guwahati fell in love with each other in the year W.P. (Crl.) 1999/2017 Page 1 of 6
3.

4. 2000/2001. They had performed a court marriage sometime in the year 2008-09 which was only known to the family members of respondent no.3. After marriage, respondent no.2 continued to live with her parents as she did not disclose the factum of her marriage to her parents. Over time the relations between respondent no.2 and respondent no.3 began to deteriorate and grew distant of each other. During the year 2016, the respondent no.2 came in contact with the petitioner who is a resident of Delhi and the two fell in love with each other. On 02.11.2016, the respondent no.2 came to Delhi for training for a period of three months. During this time respondent no.2 also used to frequently meet the petitioner. The Respondent no.3 also came to Delhi on 04/05.11.2016 for business purposes as well as to meet respondent no.2. The Respondent no.3 visited the hostel where the respondent no.2 was staying and became aware of the relation between the respondent no.2 and the petitioner.

5. The Respondent no.3 confronted both the respondent no.2 and the petitioner about their relationship. The respondent no.3 also told respondent no.2 that she cannot marry the petitioner as she was already married to him (i.e. respondent No.3). The respondent no.3 also told the respondent no.2 that he would take her back to Guwahati after she completes her training. After hearing this, the petitioner got aggressive and took out his fathers licensed pistol and tried shooting himself. The Respondent no.2 made endeavour to snatch the pistol from the W.P. (Crl.) 1999/2017 Page 2 of 6 petitioner but the pistol got fired accidentally and thus caused hurt to the respondent no.2 & 3. The petitioner then shot himself in a bid to commit suicide.

6. All three were admitted to the AIIMS, New Delhi for treatment and the statements of both respondent no.2 & 3 were recorded. The pistol used in the incident was seized from the place of incident along with 5 live cartridges, three empty shells and one fired bullet and sent for examination by the FSL, Rohini.

7. The parties have subsequently entered into a compromise and decided to amicably settle all their disputes with the help and 8.

9. intervention of family members. The Ld. ASC informed that the charge-sheet has not been filed so far in the present case. The Honble Supreme Court in *Narinder Singh v. State of Punjab*, (2014) 6 SCC466 laid down the principles to be kept in mind while quashing an FIR under Section 307 of the IPC as under: 29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases. 29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would W.P. (Crl.) 1999/2017 Page 3 of 6 be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. 10. It is clear that the altercation took place due to a misunderstanding between the parties and the pistol got fired unintentionally while the respondent no.2 was trying to snatch it from the petitioner. From these facts and especially now that the dispute has been amicably resolved between the parties, it is clear that the

chances of conviction are very low. All parties are still young and have their whole life ahead of them. It is clear that a cloud of passion and rage did not allow them to comprehend the consequences of their actions and subsequently with the intervention of the elders in their families all disputes W.P. (Crl.) 1999/2017 Page 4 of 6 have been settled. Both the respondents had filed their respective supporting affidavits along with the petition.

11. In the facts and circumstances of the case, since the matter has been amicably settled between the parties and having regard to the fact that the petitioner is still relatively young and his future career shall be jeopardized if the criminal proceedings are continued against him, no fruitful purpose would be served in further pursuing the said FIR. Hence, in the facts and circumstances of the case and to secure ends of justice, FIR bearing No.690/2016, registered on 06.11.2016 with Police Station Hauz Khas, South District, Delhi, under Section 307 of the IPC and Section 25/27/ of the Arms Act, 1959 and proceedings arising out of the said FIR are hereby quashed subject to the following directions: i.

... Petitioner

depositing a sum of Rs.20,000/- as cost with the Prime Ministers Relief Fund within a period of two weeks from today. Copy of receipt shall be filed within one week thereafter with the Registry and a copy thereof be supplied to the IO. ii.

... Petitioner

shall perform Kar Sewa at Gurudwara, Sector- 11, Dwarka, New Delhi-110075 once a week on every Saturday for three hours between 06.00 a.m. to 09.00 a.m. for a period of eight weeks. Head of the Management of the said Gurudwara is requested to utilize the services of the petitioner in any manner he considers appropriate and furnish a certificate qua his conduct at the expiry of the W.P. (Crl.) 1999/2017 Page 5 of 6 said period of eight weeks. The Probation Officer of the area shall ensure that the petitioner discharges the Kar Sewa effectively, regularly and punctually. In case of default let the Probation Officer through the concerned SHO who shall report to Prosecution Branch to bring it to the notice of the Court to recall the order of quashing of FIR.

12. The petition is disposed of accordingly.

13. A copy of this order be also sent to the Head of the Management of Gurudwara, Sector-11, Dwarka, New Delhi- 110075 for necessary information and compliance.

14. Order dasti. (VINOD GOEL) JUDGE OCTOBER24 2017 // W.P. (Crl.) 1999/2017 Page 6 of 6

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