

Dr. S. Rajagopal Vs. State

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Court : Chennai

Decided On : Apr-08-2004

Reported in : 2004CriLJ3831

Judge : A.K. Rajan, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 436 and 438; Indian Penal Code (IPC) - Sections 147, 376 and 506

Appeal No. : Criminal O.P. No. 11666 of 2004

Appellant : Dr. S. Rajagopal

Respondent : State

Advocate for Def. : M.K. Subramanian, Govt. Adv. (Crl. Side)

Advocate for Pet/Ap. : Gopalakrishna Lakshmanaraju, Adv.;K. Venkatraman, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

A.K. Rajan, J.

1. This is a petition for bail.

2. The case of the prosecution is that the petitioner is a Doctor and working as Divisional Medical Officer, Southern Railway Hospital, Madurai. He is charged for offences Under Sections 417, 376 and 506(i), IPC, for the alleged occurrence of rape by abusing his position as a Doctor and then continued cohabitation by promising to marry her and also received Rs. 3 lakhs from the complainant, by name Parimala. Originally, the FIR did not contain Section 506(i), IPC, but, at the time of arrest Section 506(i), IPC was added. The Supreme Court directed the petitioner to surrender before the Court concerned and seek for bail, and the order on the bail application shall be passed on the same day. With this direction, the anticipatory bail petition was dismissed by the Supreme Court. But the petitioner did not appear before the Court concerned, because it was guarded and sealed. Thereafter, the petitioner was arrested by the Police on 6-3-2004.

3. The learned counsel for the petitioner submits that originally the FIR was only for Section 376(D), IPC, which is a bailable offence. The other offence Section 417, IPC, is also bailable. Section 506(i), IPC is not attracted at all. Further, the complainant and the petitioner were co-habiting for sometime. The complaint is an afterthought. The alleged occurrence of rape took place in the year 2002. But the complaint was given only on 2-1-2004, i.e. after two years. Further a few complaints were also given earlier and were withdrawn. The petitioner is in custody from 6-3-2004. In these circumstances, the petitioner is entitled for bail.

4. Further, the offence alleged against the petitioner would not fall Under Section 376-D, and 471, IPC, is a bailable offence. At the most, it would fall under Section 376-D, IPC, which is punishable with a maximum five years of imprisonment, inasmuch as the petitioner was alleged to have committed rape in the guise of giving treatment in the house of the complainant, which becomes a hospital within the explanation Sub-section (3) of Section 376, IPC. Therefore, the offence of 376, IPC is not made out at all and hence the petitioner is entitled for bail.

5. The learned Government Advocate (Criminal Side) contends that the consent alleged to have been obtained by the petitioner is not voluntary and it was only induced by drugs. Therefore, it is not a valid consent. This petitioner has misused his position as a Doctor and administered drugs to a number of women who came

for treatment and while they were unconscious, he removed their clothes, took nude photographs and committed rape on them and subsequently when they came to know of that, he threatened them by showing their nude photographs and threatening them that those photographs would be published and thereby he forced other women also to give consent for prolonged co-habitation with him.

6. Further, the Govt. Advocate submitted that the petitioner is not a law abiding citizen. The anticipatory bail was dismissed by this Court and subsequently he moved the Supreme Court for anticipatory bail. The Supreme Court, by order dated 6-2-2004, dismissed his petition for anticipatory bail and directed him to surrender before the Court concerned. But in spite of the direction given by the Supreme Court, he did not surrender till 6-3-2004, when he was arrested at Karaikudi. He has also given confession that he has taken nude photographs of a few other women. Further, the complainant has also given statement under Section 164, Cr. P.C. wherein she has given particulars of few other women whose nude photographs were taken by the petitioner. Investigation is not yet over. The Investigation Officer is searching for those women who have been cheated by taking nude photographs by the petitioner. Grant of bail to this petitioner would jeopardise the investigation.

7. Further, the complainant also has filed an intervenor petition. The learned counsel for the intervenor submits that the petitioner did not surrender even after SLP was dismissed. He had administered drugs and committed rape on the complainant and a number of other women have also been cheated by him in the same manner and he has taken nude photographs of those women also. In those circumstances, the petitioner shall not be granted bail.

8. A counter has been filed by the learned Government Advocate (Criminal Side) stating that the Police took the petitioner in Police custody on 6-3-2004. On enquiry, they have seized 23 photographs in which the petitioner is found in company of many women and out of those 23 photographs, 6 photographs are nude of different women. The petitioner has cheated many women promising them to marry and co-habitated with them continuously. The petitioner being a Doctor cheated innocent poor women by administering drugs and committing rape on

them and subsequently promising them that he would marry and continue co-habitation. The petitioner was working as Divisional Medical Officer, southern Railway and he is now under Suspension. If he is released on bail, he will abscond and flee from justice.

9. The Case Diary has also been perused. It appears that so far the Police have seized number of nude photographs. The particulars of the other women have to be found out, and it is not known as to whether there are any other victim to his activities. Considering the fact that the petitioner did not surrender even after the Supreme Court had dismissed his anticipatory bail petition and he was evading arrest successfully for more than three months, the apprehension by the Police that he would abscond and flee from justice, cannot be brushed aside. Further taking nude photographs without the knowledge of the woman concerned is very serious, even assuming there is consent for inter course by the woman. In this case the petitioner is alleged to have drugged the victims while committing the crimes.

10. Considering the gravity of the offence alleged to have been committed by the petitioner, (the offences as found in the complaint may not be the ultimate charges), which is likely to be to be graver, this matter requires a serious and dedicated investigation, so that, such offences will not occur in future in any part of the State. Moreover, since the investigation is in the initial stage, the petitioner is not entitled for bail. In these circumstances, the petition is dismissed.