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Court : Jharkhand Ranchi

Decided On : Apr-07-2011

Judge : D.K.Sinha, J.

Acts : Code of Criminal Procedure (CrPC) - Section 482; Indian Penal Code (IPC) - Sections 363, 365, 34.

Appeal No. : Cr.M.P.No.1374 of 2004.

Appellant : Rakesh Kumar @ Rakesh Kumar Singh and ors.

Respondent : The State of Jharkhand and ors.

Advocate for Def. : Mr. Mohan Kumar Dubey, Adv.

Advocate for Pet/Ap. : Mr. Sujit Narayan Prasad, Adv.

Judgement :

1. The petitioners have invoked the inherent jurisdiction of this Court under Section 482 Code of Criminal Procedure for the quashing of the entire criminal proceeding along with the F.I.R. in connection with Lalpur P.S. Case No. 67 of 2002, corresponding to G.R.No.1521 of 2002. At the initial stage by the order of this Court dated 18.05.2005, further proceeding in the said case was stayed by issuing notice to the O.P.No.2. The Opposite Party No.2 appeared and filed counter-affidavit in this case but the Opposite Party No.3, who is the informant of the case,

did not appear.

2. The prosecution story in short is that the O.P.No.3 (informant) lodged an F.I.R. before the Lalpur Police Station narrating, inter alia, that he had married his son Mritunjay Kumar Singh on 09.03.2002 with the O.P.No.2 Vinita Kumari. On 15.05.2002 his son Mritunjay Kumar Singh took his wife Vinita to the Mahila Mahavidyalaya, Ranchi for filling up of the examination form of B.A. Part-II where he found the accused Rakesh Kumar, Son of Mahesh Singh, Indrapuri Road No.10 from before. Rakeh Kumar requested Mritunjay Kumar Singh to assist in filling up the form of Vinita and he got her form filled up with her assistance and also asked Mritunjay Kumar Singh to go back to his home. Rakesh Kumar was known to Mritunjay Kumar Singh from before, as he was on the visiting terms in the house of Vinita. Relying upon his statement, he left his house under impression that Rakesh Kumar will get the form filled up.

3. The incident took place at about 7 a.m. After some time Mritunjay Kumar Singh went to Mahila College and searched his wife but she could not be located. Then he went to the house of Rakesh to enquire about his wife where all the members of his house including Mahesh Singh tried to subterfuge the matter. Even thereafter his daughter-in-law Vinita Kumari could not be located. The informant, therefore, had reason to believe that his daughter-in-law Vinita was abducted by Rakesh Kumar and his father Mahesh Singh with ill-intention and had kept her confined somewhere. He was threatened by Mahesh Singh to do whatever he liked and hence the case was instituted. The informant further stated that his daughter-in-law was wearing jewellery made of gold worth 2.

Rs.7,000/- and above. On the written report, the case was registered under Sections 363/365/34 of the Indian Penal Code on 04.06.2002 with respect to the alleged offence dated 15.05.2002.

4. Learned Counsel submitted that the daughter-in-law of the informant was having love affairs with the petitioner No.1, who wanted to marry themselves and the O.P.No.2 Vinita, who was a major at that time escaped with the petitioner No.1, who was not satisfied with her marriage with the son of the informant, as she was married to him against her will. Learned Counsel further submitted that the

petitioner No.1 solemnized marriage with the O.P.No.2 after they eloped and from the consummation of their marriage two babies were born and now they are leading a happy married life. In a petition filed before the Court of C.J.M. on 02.09.2004 Vinita O.P.No.2 herein stated that the FIR instituted by her father-in-law is on false allegation. As a matter of fact, she was not kidnapped by Rakesh Kumar rather she, on her own will, accompanied Rakesh Kumar as she had love with him and later on she married to him. She was married to the son of the informant against her will. She was having a child when the petition was filed. Learned Counsel appearing for the O.P.No.2 Vinita Kumari submits that she has no longer grievance against the petitioner as she is living happily with the petitioner No.1.

5. Having regard to the facts and circumstances of the case, the fact remains as to whether the marriage between O.P.No.2 and the petitioner No.1 shall be treated as a valid marriage? Vinita Kumari, at the relevant time, was in the custody of her husband and the father-in-law because she was married at that time and she was taken away by the petitioner No.1 Rakesh Kumar Singh. Though no prima facie allegation is made out against the petitioner No.2 and Petitioner No.3 subject to the evidence put in course of the trial, I do not find it to be a fit case for the quashment of the FIR in the background as well that cognizance has been taken and charge has been framed against the petitioner.

6. The question which requires to be answered is the question of fact as to whether Vinita was major at the relevant time and she was at her liberty to take her own decision which can very well be ascertained on the basis of the evidence adduced on behalf of the parties. With this observation, this petition is dismissed.

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