
(2012) 10 DEL CK 0245

In the Delhi High Court

Case No : Criminal M.C. No. 3216 of 2012

Anil Kumar and Others

APPELLANT

Vs

The State of NCT of Delhi

RESPONDENT

Date of Decision : 17-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 376, 420

Citation : (2012) 10 DEL CK 0245

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Sushant Mukund, for the Appellant; Sunil Sharma, APP for the State, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.

Crl. M.A. No. 16463/2012 (for exemption)

Exemption allowed, subject to the deficiency being rectified.

The application stands disposed of.

Crl. M.C. No. 3216/2012

1. This is a joint petition u/s 482 Cr.P.C. for quashing of the FIR No. 268/2012, under Sections 376 /420 /34 IPC, registered at Police Station Gazipur. The ground for quashing of the aforesaid FIR is that the petitioner No. 1, Anil Kumar, the main accused had contracted marriage with the prosecutrix/petitioner No. 3, Rakhi. Necessary documents and affidavits including the photographs showing the performance of the marriage ceremony have been placed on record.

2. I have heard the learned counsel for the petitioners as well as the learned APP for the State and have gone through the record.

3. The main contention of the learned counsel for the petitioners is that the petitioner No. 1, who is the main accused and who is alleged to have committed the sexual assault on the petitioner No. 3, Rakhi, had married the latter and, therefore, both of them are now living happily. The prosecutrix has agreed not to pursue the complaint filed by her against the petitioner No. 1, Anil Kumar, and his co-accused/petitioner No. 2, Sunil Kumar. Accordingly, a prayer for quashing of the petition is made.

4. The learned Prosecutor for the State has opposed the quashing of the aforesaid FIR and the consequent proceedings on the ground that the offence is not compoundable and this is only a ploy to come out of the dragnet of facing the trial and the probable punishment which the petitioners may receive at the end of the trial.

5. I have carefully considered the submissions made by the parties and have gone through the record. I find force in the submissions made by the learned APP for the State that this is not a fit case for quashing of the aforesaid FIR and the consequent proceedings. The reasons for this is the modalities in which the crime has been committed. The petitioner No. 3/Rakhi had lodged a report on 26.7.2012 on the basis of which the FIR in question under Sections 376/ 420/ 34 IPC was registered not only against the petitioner No. 1, Anil Kumar, but also against his friend Sunil Kumar, petitioner No. 2, his co-accused. The petitioner No. 3 had stated in her complaint that she is presently residing at Dilshad Garden, Delhi but before shifting to Dilshad Garden, they were living in Kondli, Delhi, where a person by the name of Rajesh was running a shop. The petitioner No. 1, Anil Kumar, his younger brother, who used to sit on the shop had developed friendship with petitioner No. 3 and gave a proposal to marry her and the latter was swayed by his sweet talks. It is alleged by her that in the month of September, 2011, Anil Kumar, took her to his residence at A-136/2, Kondli, Delhi-110096, when nobody was around and offered her a drink saying that it is sharbat. On tasting, the petitioner No. 3 found it to be bitter and refused to consume the same. She was forced to take the same whereupon, she felt intoxicated and thereafter, the petitioner No. 1, Anil Kumar, established physical relations with her. On regaining consciousness, the petitioner No. 3 found herself to be lying naked on the bed. It is alleged that Anil Kumar told her that while she was intoxicated, his friend, Sunil Kumar, the petitioner No. 2, had made an obscene film of her and in case, she did not submit to the dictates of Anil Kumar, the said film would be circulated in the locality and he would also get the posters printed and circulate the same. By using this method of blackmail, the petitioner No. 3 alleged that she was physically oppressed and exploited by Anil Kumar repeatedly.

6. In the month of May, 2012, in one of these encounters, the petitioner No. 3 learnt that she had become pregnant and when Anil Kumar also learnt about the same, he started physically assaulting her whereupon, the petitioner No. 3 retorted that she would disclose the entire thing to her parents. This frightened

the petitioner No. 1 whereupon, he made entreaties that she should not disclose these facts to anybody and on the next day, he forced her to consume certain pills which resulted in miscarriage of the child. Thereafter, the petitioner No. 1 continued to make phone calls, the phone numbers of which were given in the complaint. Taking this as something surpassing her patience, the petitioner No. 3 came to the police station and lodged a report on the basis of which the aforesaid FIR was registered. This was despite the fact that the petitioner No. 1 had been promising that he would marry her. The charge-sheet has already been filed. The petitioner No. 1 seems to have been fully cornered and now has contracted a marriage or semblance of marriage to come out of the dragnet of facing the trial and the possible sentence which he may have to undergo because of his nefarious activities.

7. I feel the modus operandi in which the petitioner has committed the crime and that too along with his co-accused, Sunil Kumar, who is alleged to have taken the obscene pictures of the prosecutrix, clearly shows a perverted mind of the petitioner. This cannot be countenance and cannot be made a basis for quashing of the FIR. I feel that this is not a fit case where the court must come to the rescue of a perverted person and give him a relief. The offence of rape is a crime against society. The FIR in such like cases if quashed, will only give impetus to persons with like-minded mentality to commit the crime. I, therefore, feel that this is not a fit case where the court ought to exercise its inherent power u/s 482 Cr.P.C. and quash the proceedings. In view of the aforesaid, the petition is dismissed.