
(2018) 05 GAU CK 0042
In the Gauhati High Court
Case No : Crl.Pet. 146 of 2018

DHIREN KALITA

APPELLANT

Vs

THE STATE OF ASSAM AND ANR.

RESPONDENT

Date of Decision : 07-05-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 352, 354, 366, 420, 506, 511

Citation : (2018) 05 GAU CK 0042

Hon'ble Judges : AJIT BORTHAKUR

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. M. Sarania, learned counsel appearing for the petitioner. Also heard Ms. S. Jahan, learned Addl. PP, Assam for State respondent No. 1

and Mr. J. P. Chauhan, learned counsel appearing for the respondent No. 2/ the victim's mother herein.

2. By this petition under Section 482 Cr.P.C., the petitioner, namely, Hiren Kalita has prayed for setting aside and quashing the FIR, dated 18.11.2017,

whereupon, Patacharkuchi P.S. Case No.803/2017 under Sections 420/352/506/354/366/511 IPC (corresponding to G. R. Case No. 1131/2017) has been registered.

3. The petitioner's case, in a nutshell, is that the respondent No. 2/ victim's mother filed an FIR before the Officer-in-Charge, Pathsala Police

Out Post, Pathsala, on 18.11.2017, alleging, inter-alia, that the accused/ petitioner herein got acquainted with her daughter through facebook and they

maintained relation as such for the last about 3 (three) years, though, the accused is married and father of a male child. The accused/ petitioner told

her daughter that he loved her and therefore, proposed to marry her falsely stating that he was not a married man. Later on, after coming to know that the petitioner was a married man, the victim/ informant's daughter started avoiding him. It was further alleged that the accused/ petitioner came near to her house along with some unknown boys and pelted stones at their house on 15.11.2017. It was also alleged that the accused petitioner threatened the informant's daughter that he would upload her photograph in the facebook to bring down her reputation in the estimation of the society. On 17.11.2017, at around 10.25 PM, while the victim girl's mother was attending a Rash-festival along with her said daughter, the accused/petitioner misbehaved with her and upon hearing her screaming, the public present at the nearby place apprehended him and the police on duty at the place took him into custody. Based on the aforesaid FIR, Pathsala Police Out Post GDE No. 535, dated 18.11.2017, was made and on being forwarded, registered as Patancharkuchi P.S. Case No.803/2017 under Sections 420 /352 /506 /354/ 366/511.

4. The petitioner has averred in the petition that the allegations made in the FIR by the mother of the victim girl is not at all true factually.

5. It has been contended in the petition that the FIR was lodged only on the wrath of the local people and the Police and the victim girl was told by

them that if she did not lodge the FIR, then, they would not be responsible for any untoward incident in near future. It is also the contention of the

petitioner that he is working in the Central Industrial Security Force (for short, CISF) unit BTPP, Bongaigaon, Assam as Constable/ Fire.

According to the petitioner, if the investigation into the FIR is allowed to continue, his service career will be ruined and on the other hand, it would be

an abuse of process of Court and wastage of valuable time of Court as the victim girl and the petitioner have already arrived at an amicable settlement

attributing the whole occurrence to apparent misunderstanding between them.

6. Mr. J. P. Chauhan, learned counsel for the respondent No. 2/ informant (victim's mother) submits that the FIR was lodged out of

misunderstanding and under the intense undue pressure of the villagers. Learned counsel further submits that in the backdrop of the actual facts of the

case, as the the respondent No. 2 is not interested to proceed further with the case, it will be a futile exercise to continue with the criminal proceeding

against the accused/ petitioner herein.

7. Mr. M. Sarania, learned counsel for the accused petitioner has drawn the attention of this Court to the ratio of the judgment delivered by the Apex

Court in the case of Narinder Singh and Ors. Vs. State of Punjab and Anr., reported in (2014) 6 SSC 466 and submitted that the alleged offences being private in nature and if the amicable settlement between the parties is allowed, the same may culminate in restoration of good relation between the parties and there will be no adverse impact on the society in any manner.

8. Ms. S. Jahan, learned Addl. PP has drawn the attention of this Court to the case of Gian Singh-vs-State of Punjab and Another., reported in (2012) 10 SCC 303, wherein, it has been held that quashment of a proceeding depends upon the facts and circumstances of each case and if the

offence is not of heinous and serious in nature, such offence being private in nature, without any impact on the society, the Court may not perhaps, have objection to the restoration of good relation between the parties by way of compromise. Ms. Jahan submits that the basic purpose under Section 482 Cr.P.C. is to prevent injustice and abuse of the process of Court.

9. Mr. J. P. Chauhan, learned counsel appearing for the victim's mother/ respondent No. 2 submits that he has no objection against quashing of the FIR and the corresponding G. R. Case as the parties have compromised the case, which arose out of misunderstanding.

10. The law regarding quashing of FIR and the criminal proceeding was laid long back in the case of Madhavrao Jiwaji Rao Scindia-vs-Sambhajirao

Chandojirao Angre, reported in (1998) 1 SCC 1992. The Apex Court held that a proceeding may be quashed, if the chances of an ultimate conviction

are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue. This is because otherwise the parties

and the witnesses will be dragged to Court and process of the Court will be abused for no purpose. When the parties have already entered into

compromise, even if they are dragged to Court as witnesses, there is every likelihood of their turning back from the allegations and in that event, the

learned Court will be left with no other alternative but to acquit the accused person. In that event, there will be unnecessary engagement of valuable

judicial time and so taking a practical view of the matter, it appears to be proper to accept the reality and to put an end to the ongoing litigation.

11. Upon hearing the learned counsel of both the sides and the averments made in the petition, more particularly, the submission of the learned counsel for the informant/respondent No. 2, this Court is of the view that as the respondent No. 2/ victim's mother has attributed the entire incident to an apparent misunderstanding and she had to lodge the FIR under undue pressure of the villagers, it would be a futile exercise if the witnesses are dragged into the Court for no purpose wasting the valuable time of Court as they would not support the prosecution case and as such, the conviction is bleak in the case, it is desirable that the FIR, dated 18.11.2017, whereupon, Patacharkuchi P.S. Case No.803/2017 under Sections 420 /352 /506/ 354/366 /511 IPC is registered needs to be set aside and quashed. Accordingly, it is ordered. With the above direction, this petition stands disposed of.