
(2008) 09 GUJ CK 0024
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 9842 of 2001

Jagdish Naranbhai Anjani and Another	APPELLANT
Vs	
State of Gujarat and Another	RESPONDENT

Date of Decision : 18-09-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 114, 306

Citation : (2008) 09 GUJ CK 0024

Hon'ble Judges : R.P. Dholakia, J

Bench : Single Bench

Advocate : B.P. Gupta, s 1-2, for the Appellant; M.S. Panchal, APP for Respondent 1 and Harnish Darji, for Y.S. Lakhani, for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

R.P. Dholakia, J.—Heard learned Counsel for the applicant, Mr. B.P. Gupta for the applicants, Learned Additional Public Prosecutor, Ms. Mita S. Panchal for the respondent No. 1 - State and learned Counsel Mr. Harnish Darji for Mr. Y.S. Lakhani, Sr. Advocate for the respondent No. 2 - complainant.

2. Against the present applicants, complaint has been filed by the complainant before the Veraval Police Station for the offence punishable under Sections 306 and 114 of the Indian Penal Code, which has been registered as Veraval Police Station C.R. No. I-159/2001 on 06.11.2001. Before the Investigating Officer proceeds further with the investigation, the applicants have knocked the door of the High Court in the year 2001 and obtained interim order in his favour by various orders passed by this Court. However, this Court has passed an order on 06.03.2002 and direction was given to the Investigating Agency. Relevant part of the said order reads as under:

Hence, Rule returnable on 10.02.2002.

The Police can complete the investigation but there shall not be any formal arrest

and police shall file charge-sheet only after obtaining prior permission of this Court. Mr. Pancholi learned APP is directed to see that papers of investigation be made available to the Court on the returnable date.

3. Thereafter, time and again, the matter has been listed in various Court and ultimately, it has been listed in this Court as stopgap arrangement day before yesterday. However, as it was not convenient to the learned Counsel for the applicants, Mr. Gupta, it was kept yesterday and then today. Today, parties are present.

4. It has been mainly argued by the learned Counsel for the applicants, Mr. Gupta that the complaint does not disclose any prima-facie offence to connect the accused with the crime in question. It is also argued that except FIR, there is no other evidence on record, which connect the accused with the crime in question. According to him, as there is no evidence worth the name to connect the accused with the crime in question, it is a fit case, wherein the complaint is required to be quashed and set aside. Mr. Gupta has placed reliance upon the two judgments reported in Reshma Bano Vs. State of Uttar Pradesh and Others, and Volume XXX (2) GLR 834 and argued that the case of the present applicants is fully covered in the above referred judgments. It is, therefore, argued that as the complaint does not disclose any ingredients of the alleged offences, the Court should interfere with the same.

5. Learned Additional Public Prosecutor, Ms. Mita Panchal appearing for the respondent No. 1 - State has vehemently objected the same mainly on the ground that in this case, a young girl aged about 24 years has lost her life because of the act of the present applicants and FIR discloses the prima-facie ingredients of Section 306 read with Section 114 of the Indian Penal Code and, therefore, the Court should not interfere with the same. According to her, what is required to be kept in mind is that if FIR discloses any prima-facie offence then the Court should not interfere with the same, however, in the instant case, it is prima-facie disclosed. Not only that, she has further submitted that there are two witnesses viz. Savjibhai Visavaliya and Binaben Lohana, whose names are disclosed in FIR and, therefore, according to her, there is evidence on record, which connect the accused with the crime in question. She has further submitted that on one hand, the applicant has knocked the door of this Court by way of present petition and obtained interim relief by restraining their arrest and keeping records with the Learned Additional Public Prosecutor and as a result of which, investigation authority could not investigate further into the matter and on the other hand, they are demanding the evidence to show the involvement of the present applicants. It is, therefore, urged that this Court should not interfere with the same.

6. I have gone through the complaint along with the judgments, upon which reliance has been placed by the learned Counsel for the applicant. Keeping in mind the law laid down by the Hon"ble Apex Court as well as this Court, I have evaluated the evidence on record i.e. FIR as the learned Counsel for the

respective parties are not having other documentary evidence. On minute evaluation, it prima-facie discloses ingredients of the offence under Sections 306 read with Section 114 of the Indian Penal Code against the present applicants. As submitted by the Learned A.P.P., it is true that on one hand, the applicants have obtained stay from this Court and on the other hand, they are demanding evidence which connect the accused crime in question. Without giving any opportunity to the prosecution, how the prosecution can proceed further with the matter that too also, stay is in operation for indefinite time and, therefore, this Court has only gone through the FIR. At the cost of repetition, FIR discloses the prima-facie ingredients of the offence, wherein a young girl has lost her life and hence, it requires investigation.

7. In view of the above, this application stands rejected. Rule is discharged. Interim relief, if any, stands vacated forthwith. Investigating Officer is directed to investigate in the matter forthwith in accordance with law.