
(2011) 06 BOM CK 0061

In the Bombay High Court

Case No : Criminal Writ Petition No. 1577 of 2011

Mrs. Fatma Asfaq Shaikh

APPELLANT

Vs

Mr. Samad Shaikh and Others

RESPONDENT

Date of Decision : 22-06-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 363, 376

Citation : (2011) 06 BOM CK 0061

Hon'ble Judges : U.D. Salvi, J;B.H. Marlapalle, J

Bench : Division Bench

Advocate : Mahesh Vaswani and Sona Baugwalla, instructed by, Suhail Sharif, for the Appellant; Y.S. Shinde, APP, for the Respondent

Judgement

1. As directed by us vide our earlier order dated 17/6/2011, Mr. Pratap Dhighavkar, DCP, Zone IX, called upon Mrs. Sangita Patil, Police Inspector, from Juhu Police Station to record the statement of the Petitioner as well as her minor daughter Ms. Afim @ Rani Asfaq Shaikh. Accordingly, Mrs. Sangita Patil, Police Inspector, has recorded the statement of the Petitioner as well as her daughter on 18/6/2011 and copies of the same have been placed before us.

2. Mr. Shinde, the learned APP, on instructions from API Shri Suryavanshi, who is present in the court, states that the Petitioner had approached the said police station on 18/5/2011 after the missing complaint was lodged and informed the police station that her missing daughter had returned and, therefore, the case be closed. She further went to the police station on or about 31/5/2011 and informed that the minor daughter was admitted to the V.N. Desai Hospital and hence on 1/6/2011 the statement of the victim and her grand mother was recorded. On 7/6/2011 the statement of the accused Imran @ Irfan was also recorded. It is further stated that between 7/6/2011 to 11/6/2011, despite telephone calls, the Petitioner did not turn up to the police station and, therefore, on 13/6/2011 a police constable went to her house, but there was no response. In the meanwhile, on 11/6/2011, C.R. No. 293 of 2011 came to be registered

against the accused Imran @ Irfan for the offence punishable u/s 363 of IPC and he was arrested on 12/6/2011 and produced for remand on the very same day. MCR was granted till 15/6/2011 and when he was produced on 15/6/2011 before the learned Metropolitan Magistrate, he was released on bail. Again on 21/6/2011 the police constable approached the Petitioner, but there was no response from her. The learned Counsel for the Petitioner has denied these allegations and further submitted that the instant petition was filed on 10/6/2011 and only thereafter the police machinery started taking due steps and only to cover up their failure, the police claimed to have registered C.R. No. 293 of 2011 on 11/6/2011.

3. Be that as it may, we have perused the statements of the Petitioner as well as her daughter recorded by the API and as well as the statements recorded on 18/6/2011 by Mrs. Sangita Patil, PI. We direct that the investigation shall proceed on the basis of all these statements recorded and further steps, as required under Code of Criminal Procedure ., shall be taken so as to complete the investigation. Medical certificates have already been collected by the API from the hospital concerned and we have perused the same. The medical certificates do not indicate any sign of bodily injuries on the victim and rightly so because the victim was examined belatedly and as per her the offence had taken place between 4th and 5th May, 2011. Shri Samad Shaikh, Sr. PI from Bandra (West) Police Station is present before us.

4. The learned Counsel for the Petitioner has expressed his apprehensions against the investigation to be conducted further by Respondent No. 2 and under the supervision of Respondent No. 1. Though we do not find any justification for such an apprehension, as a matter of abundant precaution and having regard to the fact that the allegations are in the nature of the offences punishable under Sections 376 and 363 and the victim is a minor girl, it would be appropriate that the further investigation in C.R. No. 293 of 2011 be handed over to a lady police officer. We are informed that Ms. Jayshree Jaikar is a PSI attached to the Juhu Police Station.

5. The DCP, Zone IX, Mumbai is, therefore, directed to entrust the investigation in C.R. No. 293 of 2011 to Ms. Jayshree Jaikar, PSI, Juhu Police Station and we hope the investigation would be completed as expeditiously as possible and preferably within a period of four weeks from today and the IO will take further steps to file the final report before the competent court.

6. The petition is disposed in terms of the above directions.