
(2011) 08 GUJ CK 0059

In the Gujarat High Court

Case No : Special Criminal Application No's. 603 and 1085 of 2011

Nareshkumar Bhagwanji Parmar

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482

Penal Code, 1860 (IPC) — Section 114, 363, 366, 498A, 506(2)

Citation : (2011) 08 GUJ CK 0059

Hon'ble Judges : M.D. Shah, J

Bench : Single Bench

Advocate : Rajkumar Chaumal, for the Appellant; L.R. Pujari, APP for Respondent 1, for the Respondent

Final Decision : Allowed

Judgement

M.D. Shah, J.—Both these applications u/s 482 of the Code of Criminal Procedure have been filed for quashing of complaint registered as C.R. No. I-127 of 2010 before Deesa Rural Police Station for the offences punishable under Sections 363, 366, 506(2) and 114 of IPC against the applicants in pursuance of complaint filed by the Respondent No. 2-complainant.

2. Heard learned advocate, Mr. Rajkumar Chaumal for the applicants and learned Addl. Public Prosecutor, Mr. L.R. Pujari for the Respondent No. 1-State.

3. It is submitted by learned advocate, Mr. Chaumal for the applicants that the applicant of Spl. Cri. Appln. No. 603 of 2011 i.e. original accused No. 1 and victim married with each other. Copy of the marriage certificate is placed on record. It is further submitted that at the time of lodging of complaint, victim was minor, however, subsequently on her attaining the age of majority, marriage took place with the applicant-original accused No. 1 and now they are staying as wife and husband. In view of the fact that the victim and applicant-Nareshkumar Bhagwanji Parmar have got married at their will, no purpose would be served if criminal complaint filed against the applicants are allowed to continue. It is

therefore requested that complaint may be quashed.

4. Victim girl is present before this Court. This Court has ascertained the wish of the victim girl in chamber in presence of learned advocates for the respective parties as well as the learned APP when she has stated in no uncertain terms that applicant-Nareshkumar Bhagwanji Parmar is her husband and at present they are staying as wife and husband. It is also stated by her that she left her parents on her own free will. She has also stated that as community of her husband is different from her community, her parents are against this marriage and hence, the present complaint has been filed.

5. In view of above statement made by the victim girl to the effect that she left her parents and on attaining the age of majority got married with the applicant-Nareshkumar Bhagwanji Parmar on her own volition and at present they are staying as wife and husband under one roof, I am of the opinion that continuance of the criminal complaint filed against the applicants would be an exercise in futility.

6. Reliance is placed on a decision of the Apex Court reported in B.S. Joshi and Others Vs. State of Haryana and Another, in the case of B.S. Joshi v. State of Haryana wherein it has been observed by the Hon"ble Apex Court that High Court can exercise inherent power for quashing of criminal proceedings u/s 482 of Code of Criminal Procedure It has been held by the Apex Court in paras 14 and 15 of the said judgment as under:

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code.

7. Applying the above ratio to the facts of the present case, I am of the opinion that no useful purpose would be served by permitting the criminal complaint filed against the applicants to continue. Hence, the complaint in question is required to be quashed.

8. In view of the above, complaint registered as C.R. No. I-127 of 2010 before Deesa Rural Police Station for the offences punishable under Sections 363, 366, 506(2) and 114 of IPC against the applicants is quashed. Both these Special Cri.

Applications are accordingly allowed. Rule is made absolute. Direct service is permitted.