

(2024) 04 GUJ CK 0071

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Quashing & Set Aside Fir/Order) No. 4508 Of 2022

Nirmalkumar Budhabhai Patel

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 19-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 363, 366

Protection Of Children From Sexual Offences Act, 2012 — Section 12

Citation : (2024) 04 GUJ CK 0071

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : MB Rana, CM Shah

Final Decision : Disposed Of

Judgement

Ilesh J. Vora, J

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicant is seeking to invoke the inherent powers of this Court praying for quashing of FIR being C.R.No.11207024210743 of 2021 registered with Godhra Taluka Police Station, Panchmahal for the offences punishable under Sections 363 and 366 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences (POCSO) Act and other consequential proceedings thereto.

2. Heard learned advocate for the applicant as well as learned APP for the respondent – State. Though served, none appears on behalf of the respondent no.2.

3. The facts giving rise to file this application are that the father of the victim lodged an FIR against the applicant inter alia alleging that his daughter was abducted by applicant – accused. During the course of investigation, the statement of the victim was recorded, wherein she has categorically stated that

she has left the house with her own volition without being any force or coercion on the part of the applicant. Considering the age of applicant, the I.O. has filed the chargesheet against the applicant for the alleged offence, as referred above.

4. Learned advocate for the applicant submits that since the date of the FIR, the victim is living with the applicant and after attending the age, they entered into marriage relationship and therefore, the present criminal proceedings is nothing, but sheer misuse of process of law and/or Court and therefore, he prays that, to prevent the abuse of process of the Court and to secure the ends of justice, the criminal proceedings may be quashed and set aside.

5. On the other hand, learned APP for the respondent – State submitted that at the relevant time, the age of the victim was not marriageable and therefore, no case is made out for exercising inherent powers of this Court.

6. The law is well settled on the point of quashing FIR or chargesheet, that the allegations levelled in the FIR and the chargesheet are taken at its face value, if do not make out any case, the same could be quashed by invoking inherent jurisdiction under Section 482 of Code of Criminal Procedure, 1973.

7. In the facts of the present case, the victim was in love with applicant and against the will and wish of the family members, she left the parental home and settled with applicant and after attending the age of majority, they got married and since long, they are living peacefully and enjoying their marriage life. In such circumstances, considering the facts and circumstances of the present case, no useful purpose would be served by continuing the proceedings and chances of conviction appear to be remote and/or bleak.

8. Thus, the continuation of the criminal proceedings in relation to the impugned FIR against the applicant would be unfair and contrary to the interest of justice and it would be tantamount to the abuse of process of law and hence, to secure ends of justice, the impugned FIR being C.R.No.11207024210743 of 2021 registered with Godhra Taluka Police Station, Panchmahal and other consequential proceedings thereto are quashed and set aside qua applicant herein. Accordingly, present application is allowed and is hereby disposed of.

Direct Service is permitted.