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(2011) 09 GUJ CK 0074

In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 12070 of 2011

Rahim @ Raju Harunbhai Sumra — APPELLANT

Vs

State of Gujarat and 1 — RESPONDENT

Date of Decision : 15-09-2011

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 363, 366

Citation : (2011) 09 GUJ CK 0074

Hon'ble Judges : Rajesh H. Shukla, J

Bench : Single Bench

Advocate : Pratik Y. Jasani s 1, for the Appellant; K.P. Raval , Assistant Public Prosecutor for Respondent(s) 1, Mr. Premal Rachh for Respondent(s) 2, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice Rajesh H. Shukla

1. Rule. Learned A.P.P., Mr. K.P. Raval for the Respondent No. 1-State of Gujarat and Learned Counsel, Mr. Premal Rachh for the Respondent No. 2-original complainant waive service of notice of rule.

2. The present application has been filed by the applicant u/s 482 of the Code of Criminal Procedure, 1973 for the prayer to quash and set aside FIR being C.R. No. I-86/2011 registered with Rajkot Taluka Police Station dated 20.04.2011 on the grounds mentioned in the application.

3. Heard Learned Counsel, Mr. Pratik Jasani for the applicant, learned A.P.P., Mr. K.P. Raval for the Respondent No. 1-State of Gujarat and Learned Counsel, Mr. Premal Rachh for the Respondent No. 2-original complainant.

4. Learned Counsel, Mr. Jasani submitted that as there was love affair between the applicant and the victim-girl, the girl ran away with the applicant, for which, he has referred to the affidavits of the parents of the girl, which are produced at

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Annexure-C. He, therefore, submitted that as they have now married, the present application may be allowed. In support of his submission, he has referred to and relied upon the judgment of this Court reported in 2010 JX (Guj) 945 in case of Jayesh Kantilal Parmar v/s. State of Gujarat. He has also referred to and relied upon the judgment reported in (2000) 10 SCC 10 in the case of Fazle Gaffar Khan and Ors. v. State of W.B. and Anr., submitting that in similar case, the complaint was quashed by the Hon''ble Apex Court.

5. Learned A.P.P., Mr. Raval appearing for the Respondent No. 1-State has submitted that the girl is minor and her age is 16 years and some months.

6. Learned Counsel, Mr. Rachh for the Respondent No. 2-original complainant has placed on record the affidavit of the Respondent No. 2 and submitted that the complaint was filed as it was not digested that the daughter has decided to marry on her own way. He, however, submitted that as now they have legally wedded, they have accepted the relationship and do not desire to prosecute the criminal proceedings any further.

7. Therefore, having regard to the aforesaid facts and circumstances as well as the submissions and also considering the judgment of this Court as noted above as well as the observations made by the Hon''ble Apex Court in a judgment in case of Madan Mohan Abbot Vs. State of Punjab, the present application deserves to be allowed. The Hon''ble Apex Court has observed in para No. 6 of the said judgment as under:

We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

8. Therefore, considering the nature of offence, manner in which it is alleged to have taken place for which FIR has been filed and when the parties have amicably settled in view of the changed in circumstances, the present application deserves to be allowed.

9. In the circumstances, the present application stands allowed in terms of Para No. 5(A). The impugned FIR being C.R. No. I-86/2011, for the offences punishable under Sections 363 and 366 of the Indian Penal Code registered with Rajkot Taluka Police Station dated 20.04.2011 is hereby quashed and set aside. Rule is made absolute. Direct service is permitted.

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