

(2017) 11 GUJ CK 0001
In the Gujarat High Court
Case No : 2180 of 2015

RITESHBHAI RAMESHBHAI RUPARELIYA & ORS.

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

Date of Decision : 10-11-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs
Indian Penal Code, 1860, Section 114,
Section 323, Section 498(A) -
Abettor present when offence is committed - Punishment for voluntarily causing hurt -
Enticing or taking away or detaining with criminal intent a married woman

Citation : (2017) 11 GUJ CK 0001

Hon'ble Judges : J.B.Pardiwala

Bench : Single Bench

Advocate : JAY M THAKKAR, ?MANOJ T DANAK, ?DEVNANI

Final Decision : Allowed

Judgement

1. This application is not pressed so far as the applicant No.1 (husband) is concerned. The same is disposed of accordingly as not pressed.

2. By this writ application under Article 226 of the Constitution of India, the writ applicants have prayed for the following reliefs;

"(7.1) This Hon"ble Court may kindly be pleased to admit and allow this Criminal Miscellaneous Application.

7.2) This Hon"ble Court may kindly be pleased to quash and set aside the FIR being C.R. No.II-30/15 registered in Mahila Police Station, Rajkot for the offences punishable u/s. 498(A), 323 and 114 of the Indian Penal Code .

7.3) Pending the admission and final disposal of this petition, this Hon"ble Court be pleased to stay the FIR being C.R. No.II-30/15 registered in Mahila Police Station, Rajkot for the offences punishable u/s.498(A), 323 and 114 of Indian

Penal Code, in the interest of justice.

7.4) This Hon"ble Court may kindly be pleased to grant such other and further relief/s as may be deemed fit, just and proper in the facts and circumstances of the case, in the interest of justice."

It appears from the materials on record that the respondent No.2 wife got married with the applicant No.1 on 7th December, 2008. In the wedlock, a son was born named Henil. Henil, as on date, is 7 years of age. It appears that the matrimonial problems cropped up between the husband and wife and which led to the filing of the first information report.

3. On 30th October, 2017, the following order was passed;

"The applicant No.1 Riteshbhai Rameshbhai Rupareliya (husband) is directed to personally remain present before this Court on 07.11.2017. The respondent No.2- Falguniben Rupareliya shall also remain personally present before this Court.

This Court would like to explore the possibility of some amicable settlement between the parties keeping in mind that a son is born in the wedlock.

Post the matter on 07.11.2017 on top of the board. "

4. On 7th November, 2017, the following order was passed;

"Pursuant to the order passed by this Court dated 30th October 2017, the applicant No.1 Riteshbhai Rameshbhai Rupareliya (husband) is personally present in the Court today. The respondent No.2 Falguniben wife of Riteshbhai Rameshbhai Rupareliya along with her son Henil is also personally present. I tried my best to convince the husband to reconcile, more particularly, in the interest of the minor son. However, it seems that the relationships have soured to a considerable extent. The husband is quite adamant that he would not reconcile. In the wake of such attitude of the husband, I do not see any chances of settlement. The matter will have to be heard on its own merits. Since the matter has been admitted, post the matter for final hearing on 10th November 2017 on top of the Board."

5. Having heard the learned counsel appearing for the parties and having considered the materials on record, I am of the view that no case is made out of any harassment or cruelty within the meaning of section 498(A) of the IPC so far as the applicants Nos.2, 3 and 4 are concerned. I take notice of the fact that the applicant No.2 is the father-in-law, the applicant No.3 is the mother-in-law and the applicant No.4 is the sister- in-law.

6. I am inclined to accept the case put up by the applicants Nos.2, 3 and 4 in this petition. This application, therefore,

succeeds and is hereby allowed so far as the applicants Nos. 2, 3 and 4 are concerned. The first information report being C.R. No.II-30 of 2015 registered at

the Mahila Police Station, Rajkot is hereby quashed. The Investigating Officer shall now proceed further with the investigation of the first information report so far as the applicant No.1 husband is concerned. Let appropriate action be taken by the police officer concerned in this regard at the earliest. Rule is made absolute to the aforesaid extent.

Direct service is permitted.