
(2013) 06 JH CK 0070
In the Jharkhand High Court
Case No : Writ Petition (Cr.) No. 228 of 2006

Shanu Paul

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164
Penal Code, 1860 (IPC) — Section 34, 366A

Citation : (2013) 4 AJR 227 : (2013) 3 JLJR 380

Hon'ble Judges : Prashant Kumar, J

Bench : Single Bench

Advocate : Shailesh, for the Appellant; Ravi Kerketta, J.C. to G.P.-IV, for the Respondent

Final Decision : Allowed

Judgement

Prashant Kumar, J.—This writ application has been filed for quashing the first information report of Dhanbad (Saraidhela) P.S. Case No. 462 of 2006 dated 11.07.2006 corresponding to G.R. No. 2156 of 2006 under Sections 366A/34 of the Indian Penal Code. Petitioner is the daughter of informant (respondent No. 4). Petitioner states that she is major. Thus, entitle to marry with a man of her choice. She further states that on 0407.2006 she went to Asansol with Ritesh Kumar Roy and married with him out of hr own sweet will. She further states that her father (respondent No. 4) lodged aforesaid first information report with a view to harass her husband Ritesh Kumar Roy, because, her father is against the aforesaid marriage. It is further stated that she is residing with Ritesh Kumar Roy as his wife. Petitioner then stated that as she has not been kidnapped and/or abducted, no offence made out against Ritesh Kumar Roy. Accordingly, she prayed that the first information report lodged by her father against Ritesh Kumar Roy be quashed.

2. Sri Shailesh, learned counsel for the petitioner submits that it manifests from the admit card (Annexure-2), issued by Jharkhand Academic Council, Ranchi that

date of birth of petitioner is 3rd of August, 1986. He further submits that admittedly first information report was lodged on 11.07.2006, thus on that date petitioner was minor. He further submits that statement of petitioner recorded by learned Chief Judicial Magistrate, Dhanbad u/s 164 of the Cr.P.C. In that statement she categorically stated that she is major and she went to Asansol with Ritesh Kumar Roy and married with him out of her own sweet will. Sri Shailesh submits that in view of the statement of petitioner, no offence u/s 366A of the I.P.C. made out, thus, the first information report is liable to be quashed. He relied upon the judgment of Hon''ble Supreme Court in Lata Singh Vs. State of U.P. and Another, .

3. Sri Ravi Kerketta, J.C. to G.P.-IV appears on behalf of State and opposed the present application. He submits that till the date of filing of counter affidavit on behalf of respondent Nos. 2 & 3 the age of the petitioner was not verified by the Medical Board. Thus, it is not clear whether on the date of occurrence, she is major or not? However, he fairly submits that genuineness of Annexure-2 has not been challenged in the counter affidavit.

4. It appears that informant (respondent No. 4) appeared through Rakesh Kumar Singh, Advocate, but he did not file any counter affidavit. Thus, the averments made in the writ application has not been denied by him.

5. Having heard the submissions, I have gone through the record of the case. As noticed above present application filed by the alleged victim (Shanu Paul) for quashing the first information report of Dhanbad Saraidhela P.S. Case No. 462 of 2006 dated 11.07.2006 under Sections 366A/34 of the I.P.C., which was lodged by her father against Ritesh Kumar Roy and others. In the first information report, respondent No. 4 alleged that petitioner is minor and on 04.07.2006 she has been kidnapped by Ritesh Kumar Roy and two others and taken to Asansol with intention to solemnize marriage. It appears that the I.O. produced petitioner in the court of Chief Judicial Magistrate, Dhanbad and a petition filed for recording her statement. It reveals from the record that on the request of the I.O., statement of petitioner recorded u/s 164 Cr.P.C. It reveals from the said statement (Annexure-4), that the petitioner went to Asansol along with Ritesh Kumar Roy out of her own sweet will and married with him. She further stated that the allegation leveled against Ritesh Kumar Roy and others are false. She then state that she is residing with Ritesh Kumar Roy at Saraidhela, Dhanbad and she is willing to reside with him.

6. Annexure-2 the Admit Card issued by Jharkhand Academic Council, Ranchi shows that the date of birth of petitioner is 3rd August, 1986. Thus, on the date of occurrence i.e. 04.07.2006 petitioner was major. Thus, I find that no offence, u/s 366A/34 I.P.C., made out against Ritesh Kumar Roy and others.

7. In Lata Singh Vs. State of U.P. and Another (supra), the Hon''ble Supreme Court has held that a writ petition can be filed by the victim for quashing of first information report lodged against her husband by her parents. In the above case

the Hon"ble Supreme Court held that a major girl has right to marry with a person of her own choice. There lordships further held that if the girl is major and she married with a man out of her own free will, then no offence made out against the husband and his family members. Thus, the case lodged by the father of relative of the girl is required to be quashed.

8. In the instant case, as noticed above, petitioner is major and she went to Asansol with Ritesh Kumar Roy out of her own sweet will and married him. Thus, in view of the aforesaid law laid down by their lordships of Supreme Court, present criminal case, against Ritesh Kumar Roy and others is liable to be quashed. In view of the discussions made above, this application is allowed and the entire criminal proceeding in connection with Dhanbad Seraidhela P.S. Case No. 462 of 2006 corresponding to G.R. No. 2156 of 2006, pending in the court of learned Chief Judicial Magistrate, Dhanbad is hereby quashed.