
(2011) 06 JH CK 0147
In the Jharkhand High Court
Case No : Criminal M.P. No. 277 of 2011

Vibhor Singhania

APPELLANT

Vs

State of Jharkhand and Neelam Jain

RESPONDENT

Date of Decision : 28-06-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 313, 376, 420, 504

Citation : (2011) 4 JCR 56

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Advocate : Nilesh Kumar, for the Appellant; Krishna Murari, for the O.P. No. 2 and S.K. Srivastava, Assistant Public Prosecutor for the State, for the Respondent

Final Decision : Dismissed

Judgement

D.K. Sinha, J.—The Petitioner has invoked the inherent jurisdiction of this Court for quashment of his entire criminal proceedings including the First Information Report arising out of Mahila P.S. Case No. 22 of 2010 corresponding to G.R. No. 5500 of 2010 for the alleged offence under Sections 376/313/504/420 of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Ranchi.

2. The Petitioner had earlier moved for his anticipatory bail before this Court in ABA No. 568 of 2011 which was rejected.

3. The criminal law was set in motion on the written report of the informant Neelam Jain wherein she narrated that she belonged to Ranchi. She came in contact with the Petitioner Vibhor Singhania at the instance of his father Kailash Singhania whose office was situated adjacent to her home and as such they were having acquaintance to each other. Kailash Singhania had disclosed, that his, son Vibhor Singhania was also reading in her class and if she wanted to take his help, then she may secure in his office and in that manner she was permitted to contact the Petitioner in his father's office. She further narrated that her contact with the Petitioner, converted into deep friendship and both started and

continued joint studies in the office of Kailash Singhanian. In the night of 9.11.2005 the Petitioner Vibhor Singhanian called her in the office of his father where there was none at the time then he forcibly exploited her sexually to which she strongly protested but of no avail and after commission of such act she was threatened, by the Petitioner not to convey the matter to anybody and assured that he would marry to her. It was alleged that she was taken by him to Durgabari situated by the side of "Firayalal" where he put vermilion on her "MAANG" and a pendant bearing "OHM" in black thread as a token of "MANGALSUTRA" put in her neck and impressed that she was now his wife and he would accept her as his wife in the society and thereafter he continued exploiting her sexually for long time by putting impression that she was legally married to him, as a result of which, she conceived. She was taken to the Clinic of Dr. Poonam situated at H.B. Road by the Petitioner where the doctor refused terminate her pregnancy as it could cause fatal to her and at last, her pregnancy was terminated by Dr. Kumkum in her clinic situated at Bariyatu and D.N.C was also performed, as a result of which she suffered mental agony and physical pain. She then cautioned the Petitioner that she would go and inform to the member of her family about the incident but she was again persuaded that he would take her to his own home with the consultation of the members of his family but after sometime he stopped talking to her and even meeting to her. Then she went to the father of the Petitioner and conveyed the entire occurrence to which he became furious threatened her not to convey the matter to any body lest she would face the consequence Finally she alleged that the Petitioner and his father were threatening to eliminate, her and thus in the manner narrated above her life was ruined by the Petitioner, she alleged.

4. A police case was instituted and investigation initiated.

5. Mr. Neliesh Kumar, the Learned Counsel appearing for the Petitioner submitted that the entire allegation against the Petitioner was false and concocted and the case was brought about maliciously with the intention to malign the prestige and reputation of the Petitioner and his father in the society. A complaint was made by the informant before" the Chairperson of Women"s Commission wherein a different story was given that the Petitioner married to her in the temple and then he established sexual relationship as a result of which she became pregnant and her pregnancy was terminated. He continued playing sex with her on the assurance that he would marry her and now he had stopped talking to her.

6. Mr. Nilesh Kumar further submitted that from plain reading of both written report and complaint made by the informant to Women"s Commission it would; appear that no offence much less alleged under Sections 376/313 or any other offence under Indian Penal Code was attracted against the Petitioner. The informant Neelam Jain claimed to be major being 26 years old, quite competent under law to take her own decision and in no event the offence of rape is made out against the Petitioner as it appeared to be of a consent sex which continued for long time even after alleged termination of pregnancy. The girl was of easy

virtue who tried to demolish the image and reputation of the Petitioner in the society by levelling false allegation and therefore, the criminal prosecution of the; Petitioner would result in the miscarriage of justice by dragging an innocent person to criminal prosecution.

7. Heard Mr. Krishna Murari, the Learned Counsel appearing for and on behalf of the O.P. No. 2 who strongly opposed the contention and submitted that investigation of the, offence alleged against the Petitioner was in the preliminary stage and it would not be appropriate to intervene in the course of investigation by quashing the FIR as there was a prima facie allegation, serious in nature alleged under Sections 376/313 of the India Penal Code against the Petitioners besides other offence,

8. Having regard to the facts and circumstances of the case, I find substance that The investigation of the case is in progress. The nature of allegation as levelled against the Petitioner is serious which needs thorough probe. I further find substance that it Would not be appropriate to intervene in the course of investigation which is at the preliminary stage. In the facts and circumstances, I do not find it to be a fit case for interference in the FIR lodged against the Petitioner. This petition is devoid of merit and hence it is dismissed, however with the liberty to the Petitioner for redressal in future, if at all.