

Criminal Revision
Present :-The Hon'ble Justice Ashim Kumar Roy
Judgment On : 21-05-2010.
CRR 1330 OF 2010
Jamaluddin Molla & Ors.
versus
The State of West Bengal & Anr.

POINTS

Quashing of charge sheet – Petitioners charged under section 376/511 of I.P.C. – Prayer for quashing on the ground that materials collected do not disclose any offence – Quashing if permissible – Indian Penal Code 1860, S 376 & Code Of Criminal Procedure S 482.

FACTS

The petitioner being charged with an offence punishable under section 376/511 of I.P.C. has moved this application under section 482 of CrPC for quashing of the charge primarily on the ground the materials collected do not constitute any offence for which the charge sheet has been submitted and also the case has been settled between the parties.

HELD

It is found that the victim girl was aged about 15 years and according to the prosecution case while she was going to school with her friends, the accused persons forcibly took her away and molested and attempted to ravish her . Thus it cannot be said that no offence for which charge sheet had been submitted had been made out. Para 4

The offence punishable under Section 376 of the Indian Penal Code is a non-compoundable offence. Therefore, the quashing of the charge-sheet on the ground that father of the complainant has compromised the matter with the accused persons would be of consequences. Para 4

For Petitioners : Mr. Manjit Singh

Mr. Anand Keshari

For State : Mr. Sobhendu Sekhar Roy

THE COURT 1. Invoking Section 482 of the code of Criminal Procedure, the present petitioners, who have been charge-sheeted under Sections 376/511 of the Indian Penal Code, have approached this Court for quashing of the same.

2. Mr. Manjit Singh, Learned Counsel, appearing with Mr. Anand Keshari, on behalf of the petitioners, urged the following points in support of this application;

(a) The evidentiary materials collected during investigation does not make out any offence for which charge-sheet has been submitted,

(b) Initially the case was started under Section 323, but the charge-sheet has been submitted under Sections 376/511 of the IPC, and

(c) The matter has been compromised by and between the parties.

On the other hand, Mr. Sobhendu Sekhar Roy, Learned Counsel, appearing on behalf of the State, vehemently opposed the prayer for quashing. He submitted that sufficient materials have been collected by the police during investigation showing complicity of the accused in the commission of the alleged offence. He further submitted earlier the Division Bench of this Hon'ble High Court considered the prayer for anticipatory bail of the petitioners and rejected the same.

3. Heard the Learned Counsel appearing on behalf of the parties. Perused the Case Diary.

4. Having gone through the evidentiary materials on the basis of which charge-sheet has been submitted, I find that victim girl at the time of the alleged incident was aged about 15 years. I further find according to the prosecution case while she was going to school with her four other friends, the accused persons forcibly took her inside the courtyard of their house and

started squeezing her private parts and then attempted to rape her. On the face of those allegations, it cannot be said no offence for which charge-sheet has been submitted has been made out. Moreover, this Hon'ble High Court after considering the Case Diary rejected the petitioners' prayer for anticipatory bail, having found there are sufficient materials against them. The offence punishable under Section 376 of the Indian Penal Code is a non-compoundable offence. Therefore, the quashing of the charge-sheet on the ground that father of the complainant has compromised the matter with the accused persons would be of no consequences. This criminal revision has no merit and accordingly stands dismissed. Interim order, if any, stands vacated. Criminal Section is directed to deliver urgent Photostat certified copy of this order to the parties, if applied for, as early as possible.

(**Ashim Kumar Roy, J.**)