



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 174 OF 2024
(Arising out of SLP(Crl.) No.10842 of 2022)

MOHD. JULFUKAR

...APPELLANT(S)

VERSUS

**THE STATE OF UTTARAKHAND
AND ANOTHER**

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAI, J.

1. Leave granted.
2. Learned counsel appearing for the State and for the complainant has vehemently opposed this appeal.
3. This appeal challenges the order dated 11th October 2022, passed by the High Court of Uttarakhand in C-482 No.666 of 2020, vide which the application filed by the present appellant for quashing of the proceedings under Sections 376 and 506 of the Indian Penal Code, 1860 (for short, "IPC") came to be rejected.
4. The undisputed facts which lead to filing of the present

appeal are as under:-

4.1 The appellant was in relationship with the complainant.

It appears that the relationship of the appellant with the complainant was against the wishes of the parents but they decided to reside together.

4.2 The father of the complainant filed a Habeas Corpus Petition No.27 of 2018 before the High Court alleging therein that his daughter was illegally detained by the appellant herein and for a direction for production of the complainant.

4.3 In the said proceedings, the High Court, vide order dated 24th July 2018, observed thus:-

“2. In this Habeas Corpus petition, this Court vide order dated 19.07.2018 had asked the girl to be produced before this Court. The girl, namely, Ms. Aisha is present in person before this Court. Her date of birth is twenty years. This court also had an occasion to interact with the girl. She seems to be articulate, and an adult who can take decisions for herself. She has given a categorical statement before this Court that she wants to go with respondent no.3, who is her husband. Her presence was hence exempted.

3. In view of the above, nothing further needs to be done by this Court. The petition fails and it is hereby dismissed. Ms. Aisha is set free to go with her husband, as this is her wish as stated before this Court in person by her.”

4.4 It appears that thereafter the appellant and the complainant resided together for a considerable time.

However, there was a discord between them and after that they started residing separately. Thereafter, the complainant filed an FIR being No. 474 of 2019 before the Police Station Bhagwanpur, District-Haridwar for the offences punishable under Section 376, 377 and 506 of the IPC.

5. We have heard Mr. Sanjay Kumar Dubey, learned counsel appearing for the appellant and Mr. Saurabh Trivedi, learned counsel appearing for the respondents.

6. When the matter was heard by the learned Single Judge of the High Court, the learned Judge, as can be seen from the impugned order, had also interacted with the complainant. A perusal of the impugned order would clearly reveal that the complainant had stated before the learned Judge that she was forced to solemnize the marriage against her wishes with the appellant herein. It is, thus, clear from her own statement that she was forced to marry the appellant. As such, the relationship between the appellant and the complainant was after the said marriage.

7. It could thus be seen that even if the statement made by the complainant is taken on its face value, the ingredients to constitute the offence under Section 376 IPC are not made out.

8. In any case, the complainant has filed an affidavit dated 16th January 2023 before this Court. In the said affidavit, she has stated thus:-

“1. That I am Respondent No.2 in the abovementioned Special Leave Petition and as such is fully conversant with the facts and circumstances of the case and competent to swear this affidavit.

2. That marriage/Nikah of the Resp. no.2 and the petitioner was duly solemnized on 01.01.2018. It is further clarified that resp. no.2 had married with the petitioner as per her free will and there is no child from this Nikah.

3. That due to the interference from the respective families which further led to the serious differences and bitterness amongst the parties (after one and half years of marriage) and thereafter a Criminal Case under sec.156(3) Cr.P.C. was filed by the Resp.no.2 against the petitioner in the Court and FIR No.474/2019, dt.13.10.2019 was registered at P.S.-Bhagwanpur, District-Haridwar, Uttarakhand and the same is pending as Criminal Case No.542 of 2020 “State Vs Kari Julfukar” pending before the Court of Civil Judge (JD)/Judicial Magistrate, Roorkee, District-Haridwar.

4. That the petitioner thereafter approached the Hon’ble High Court of Uttarakhand at Nainital seeking quashing of the abovementioned criminal case.

5. That in the meantime the matter between the parties was resolved amicably and since it was not possible for the parties to reside together and they mutually decided for Talaq (divorce) and their divorce was finalized by Talaq-E-Khula dt.07.09.2022. The respondent has also filed her affidavit in the Hon’ble High Court at Nainital stating that the matter has been settled and she does not want to proceed further i.e., prosecute the

petitioner further.

6. That Resp. no.2 further reiterates that the dispute between the parties has been resolved and settled amicably after mediation between the parties and she wants to move on in her life and does not want to proceed further against the petitioner in the above mentioned Criminal Case No.542 of 2020 "State Vs Kari Julfukar" pending before the Court of Civil Judge (JD)/Judicial Magistrate, Roorkee, District-Haridwar.

7. That the contents of the facts stated in paragraph no.1 to 6 of this affidavit are true and correct to my knowledge and based on record. Nothing material has been concealed there from."

9. It is thus clear that now even the complainant herself does not want to proceed further with the proceedings. She has stated in her affidavit filed before this Court that they have mutually obtained a divorce and it was finalized by Talaq-E-Khula on 7th September 2022.

10. We find that the continuation of proceedings in these circumstances would be prejudicial even to the interest of the complainant and she would be forced to continue with the case, which she does not want.

11. It appears that both the appellant and the complainant have resolved their disputes and decided to lead their lives peacefully.

12. In the facts and circumstances of the case, we find that the continuation of the criminal proceedings would not be in

the interest of justice.

13. The impugned order dated 11th October 2022 passed by the High Court so also the FIR No. 474 of 2019 are quashed and set aside.

14. The appeal is accordingly allowed.

15. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
JANUARY 09, 2024