

CORRECTED

ITEM NO.21

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 6279/2023

(Arising out of impugned final judgment and order dated 30-03-2023 in CRLP No. 104232/2022 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

RAJKUMAR

Petitioner(s)

VERSUS

THE STATE OF KARNATAKA & ANR.

Respondent(s)

(IA No. 100109/2023 - EXEMPTION FROM FILING O.T.)

Date : 05-03-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE

HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. Vinay Navare, Sr. Adv.
Mr. Chinmay Deshpande, Adv.
Mr. Manjunath K, Adv.
Mr. Anirudh Sanganeria, AORFor Respondent(s) Mr. Muhammad Ali Khan, A.A.G.
Mr. V. N. Raghupathy, AOR
Mr. Manendra Pal Gupta, Adv.
Mr. Omar Hoda, Adv.
Mr. Uday Bhatia, Adv.
Ms. Eesha Bakshi, Adv.
Mr. Kamran Khan, Adv.

Mr. Namit Saxena, AOR

Mr. Shaurya Rai, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The petitioner has approached this Court invoking its jurisdiction under Article 136 of the Constitution of India after he was unsuccessful before the High Court of Karnataka in having an FIR registered against him invalidated. The High Court had

dismissed his petition under Section 482 of the Code of Criminal Procedure, 1973. The FIR was made by the respondent No.2, a lady with whom he appears to have had relationship in the past. In the FIR bearing No.108/2022 dated 23.07.2022, respondent No.2 has alleged commission of offences against her under the provisions of Sections 342, 354, 366, 376(2)(n), 312, 201, 420, 506 and 509 of the Indian Penal Code, 1860 and Sections 66(E), 67 and 67(A) of the Information Technology Act, 2000. As we have indicated earlier, the petitioner and the respondent No.2 were in a relationship but such relationship soured later. There are various allegations and cross allegations against each other. In the judgment assailed before us, the High Court has dealt with the nature of the allegations against the petitioner and relying on a judgment of a Division Bench of the same Court in the case of *Abdul Majid Sab & Ors. vs. State of Karnataka by Ripponpete Police*, reported in ILR 2010 KAR 1719, rejected the petitioner's plea. In the same judgment, the quashing plea in relation to an FIR against the respondent No.2 was also dealt with and dismissed simultaneously.

We have been taken through the various offending acts alleged to have been committed by the petitioner and the submission of Mr.Navare, learned senior counsel for the petitioner, is that these were all a counterblast to the petitioner's complaint of blackmailing/extortion against the respondent No.2.

In this factual back drop, it cannot be held that the FIR does not disclose any offence. The allegations cannot be held to be inherently improbable, which is one of the grounds for quashing an FIR, as held in the judgment of this Court in the case of *State of*

Haryana & Ors. vs. Bhajan Lal & Ors., reported in 1992 SCC Supl. (1) 335.

Mr. Navare, learned senior counsel, relied on a recent judgment of this Court in the case of *Shambhu Kharwar vs. State of Uttar Pradesh & Anr.*, reported in 2022 INSC 827 / 2022 SCC OnLine SC 1032, to contend that consensual relationship cannot give rise to an offence of rape. We accept this view taken by a coordinate Bench of this Court but so far as the subject proceeding is concerned, the allegations do not demonstrate continued consent on the part of the complainant. A relationship may be consensual at the beginning but the same state may not remain so for all time to come. Whenever one of the partners shows his or her unwillingness to continue with such relationship, the character of such relationship as it was when started will not continue to prevail.

In the instant case, we do not think the relationship had remained consensual to justify quashing of the criminal complaint at the threshold. We also do not think that the complaint, in pursuance of which the FIR has been registered, lacks the ingredients of the offences alleged.

We, accordingly, decline to interfere with the impugned order and the present petition shall stand dismissed.

The interim order, if any, shall stand dissolved.

Having regard to the nature of the allegations made by the respondent No.2, we direct masking of her identity in all records pertaining to this case before this Court and the High Court and she shall be henceforth referred to as 'Miss X'.

We also find that in the judgment of the High Court the

identity of respondent No.2 has been disclosed.

Let appropriate steps be taken to mask her identity in future in the pending proceeding in all the concerned Courts.

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

(NIRMALA NEGI)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR

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