Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 2 of 2023

Date of Decision: 06.02.2023

Shri Bhalang Shylla & Anr. Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K. Paul, Sr. Adv. with
Ms. B.S. Goyal, Adv.

For the Respondent(s) : Mr. S. Sengupta, Addl. PP and
Mr. H. Kharmih, Addl. PP.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

O R D E R

1. This is an application filed by the petitioners herein under Section 482 Cr.PC with a prayer to quash the FIR dated 26.11.2022 and criminal proceedings arising out of Khliehriat Women PS Case No. 36(11)2022 under Section 376/506 IPC r/w Section 4 of the POCSO Act, 2012.

2. The brief facts of the case is that the petitioner No.2 herein had lodged an FIR dated 26.11.2022 narrating a sequence of events involving the petitioner No.1 herein. In the said FIR, it is stated that the petitioner No.2 being about 23 years old at present had a physical relationship with the petitioner No.1 in the month of March 2017 when she was about 17 years old. It is to be noted that the petitioner No.1 was already a married man at that point of time. The relationship ended on 26.03.2020 when the wife of the petitioner No.1 came to know of the same and had warned the petitioner No.2 not to have any further relationship with the petitioner No.1.

3. In the year 2022 sometime in the month of January, the petitioner No.1 again approached the petitioner No.2 with a promise to provide a Government job for her and by such allurement, the petitioner No.1 asked the petitioner No.2 to meet him near the gate of Khliehriat Higher Secondary School on 28.02.2022 and also to bring the relevant documents along with her.

4. The petitioner No.2 then met the petitioner No.1 on the said date and upon meeting him, she was persuaded by him to go in a vehicle to a certain place with the assurance that she is to sign some papers there. However, on reaching the house, the petitioner No.1 raped her and threatened that she should not reveal the incident to her relatives or else he will kill her.

5. It was only on 13.11.2022 when the mother of the petitioner No.2 took her to Bethany Hospital, Shillong for medical examination on her complaint of having stomach ache, it was revealed that she is pregnant and eventually the petitioner No.2 related to her family members whatever has

happened between her and the petitioner No.1.

6. On receipt of the said FIR, a criminal case was registered being Khliehriat Women PS Case No. 36(11)2022 under Section 376/506 IPC r/w Section 4 of the POCSO Act, 2012 and the Investigating Officer (I/O) recorded the statement of the petitioner under Section 161 Cr.PC wherein she has reiterated whatever has been stated in the FIR.

7. Mr. K. Paul, learned Sr. counsel along with Ms. B.S. Goyal, learned counsel for the petitioners has submitted before this Court that the fact that the petitioner No.1 and the petitioner No.2 were involved in a relationship in the year 2018 is admitted. However, this relationship is based on mutual love and understanding and that in the year 2022 in the month of November, a baby boy was born to the petitioner No. 2 as a result of this relationship.

8. It is also submitted that the petitioner No. 2 being angry and upset with the petitioner No. 1 was persuaded by others to lodge the said FIR dated 26.11.2022 but the fact remains that the petitioner No. 1 after realizing his responsibility to the petitioner No. 2 and the baby, has assured that he will support and take care of the child in whatever manner that is required.

9. Again, it is submitted that the petitioners have now come to an amicable understanding and has decided not to spoil their future as well as the future of the child and thus have approached this Court jointly with this instant application for necessary orders to set aside and quash the said FIR as well as any criminal proceedings thereto as the petitioner No.2 is no longer willing to pursue the case and is now convinced that the petitioner

No. 1 will take care of her as well as the child.

10. Mr. S. Sengupta, learned Addl. PP appearing for the State respondent has submitted that the case diary of the abovementioned case has been produced before this Court today along with the status report filed by the I/O of this case. It is also submitted that the petitioner No. 2 has subsequently stated that she does not wish to proceed with the case any longer. In this regard, it is prayed that this Court upon perusal of the case diary may pass necessary orders.

11. Upon hearing the parties, this Court has carefully perused the petition as well as the case diary and the status report. The facts and circumstances of the case as recounted above has been accurately portrayed in the records and as such, the same is not required to be repeated.

12. The petitioner No.1 has admitted to the fact that there was a relationship between him and the petitioner No. 2 since the year 2018 and that since that time, the two had got themselves involved in a physical relationship. It is pertinent to note that as in the year 2018, the petitioner No. 2 was still a minor but since there was no report made to the police or the authorities concerned, no case under the relevant provisions of the POCSO Act was initiated.

13. However, this Court is more concerned with the allegation made by petitioner No.2 concerning the incident of rape which happened on 28.02.2022. The details of the said incident narrated by the petitioner No. 2 are lucid and without any embellishment which leaves no room for anyone

or for that matter for the I/O to disbelief the story. The petitioner No.1 has not denied the facts set out in the said FIR.

14. It may be true that after a change of heart or on extraneous circumstances, the petitioner No. 2 is persuaded to come together along with the petitioner No. 1 before this Court with this instant petition to quash the said FIR and proceedings, but the fact remains that an allegation of a heinous crime such as rape being committed and perpetrated on a woman, coupled with a threat for her life if she dared to reveal the incident to anyone cannot be taken lightly.

15. This Court cannot turn a blind eye to such a situation and considering all aspects of the matter, the investigation and trial of the case at this stage cannot be thwarted by a mere asking of the parties involved.

16. This being the case, this Court, under the circumstances, is not competent nor inclined to exercise its inherent power to accede to the prayer made by the petitioners herein.

17. Accordingly, this petition is dismissed as devoid of merits.

18. Registry is to send back the case diary.

19. Petition is disposed of. No costs.

Judge

Meghalaya
06.02.2023
" N. Swer, Stenographer"