

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 723 of 2015

Anjan Kumar @ Aishwarya Bhoi S/o Dukhi Shyam Bhoi Aged About 27 Years R/o Village Putka, Police Station Saraipali, Civil And Rev. Distt. Mahasamund Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Saraipali Civil And Rev. Distt. Mahasamund Chhattisgarh.

---- Respondent

Shri K.A.Ansari, senior counsel along with Shri Devesh Kela, counsel for the applicant/s.
Ms. Sunita Jain, Panel Lawyer for the State.

Order On Board

18/08/2015

The applicant is apprehending his arrest in connection with Crime No.237/15 registered at police station – Saraipali, Distt. - Mahasamund, CG for alleged commission of offence under Section 376 of IPC.

2. Case of the prosecution is that the applicant on giving false pretext of marriage, though he was already married, committed rape on the prosecutrix.

3. Learned counsel for the applicant submits that present is a case of false implication. He submits that at one point of time, the father and brother of the prosecutrix came to know about the relationship of the applicant and the prosecutrix after seeing the phone calls and other details in the mobile kept by the prosecutrix. As dispute arose, proceedings under Section 107 CrPC were drawn and in those proceedings, the father, brother and the prosecutrix made statement regarding relationship of the applicant and the prosecutrix for five years. In those proceedings, the prosecutrix did not make any allegation of commission of rape but thereafter on 03/07/14, FIR has been lodged wherein, now allegation is being leveled that the applicant committed rape on the prosecutrix on 15/05/15 and

thereafter, after about 15 days, he threatened the prosecutrix that if she does not fulfill his demands, he would distribute obscene video clippings of her.

4. On the other hand, learned State counsel opposes the bail application and submits that according to the prosecutrix, the applicant committed rape on 15/05/15 which she could not immediately disclose. This was done on the assurance that though the applicant is married, he would marry the prosecutrix. Later on, when the demand was repeated and the prosecutrix resisted, the applicant threatened her to disclose video clippings showing their compromising position.

5. Prima facie, it appears that the father and brother of the prosecutrix having seen the details in the mobile, made an enquiry and a dispute arose with the applicant which led to initiation of proceedings under Section 107 of CrPC. The statement of the prosecutrix was also recorded in which, she stated that she had long affair with the applicant for five years but the applicant married another girl two years before and thereafter, he told her that the marriage was against his wishes and he would divorce his first wife and then he would marry her. Thereafter, suddenly, he stopped contacting the prosecutrix on mobile and then stated upon being enquired that he cannot marry her and when she stated that she would disclose the story to the police then he told that he has prepared MMS of the prosecutrix which would be uploaded on the internet.

In this statement, the prosecutrix does not state about any rape committed on her. After few days, a report has been lodged in the police station on 03/07/15 alleging therein that the applicant committed rape on her on 15/05/15 on giving false pretext of marriage though he was already married. Therefore, looking to the entire circumstances, false implication of the applicant cannot be ruled out.

6. Considering the aforesaid aspects, particularly, the prosecutrix's own version that she had an affair with the applicant for five years and the prosecutrix appears to be about 21 years of age, the application is allowed.

7. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the arresting officer on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicant shall make himself available for interrogation by the police officer as and when required;

(ii) the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
Manindra Mohan Shrivastava
Judge

Deepti