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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.44 OF 2023

RAJAN CHATURVEDI

... PETITIONER

Versus

**STATE OF GOA THR. THE
POLICE INSPECTOR AND
ANR.**

... RESPONDENTS

Mr Pravin Naik, Advocate for the Petitioner.

Mr S.G. Bhobe, Public Prosecutor for the Respondents.

**CORAM: M.S. SONAK &
VALMIKI SA MENEZES, JJ.**

DATE : 2nd MAY 2023

ORAL ORDER :

- 1.** Heard Mr Pravin Naik for the Petitioner and Mr S.G. Bhobe learned Public Prosecutor for the State.
- 2.** This is a petition under Section 482 of CrPC read with Article 226 of the Constitution to quash F.I.R. No.17/2023 dated 09.02.2023 registered at Pernem Police Station against the Petitioner.
- 3.** The F.I.R. alleges the Petitioner committed offences under Sections 376, 323, 504, 506(ii) and 509 of I.P.C.

4. Mr Pravin Naik initially submitted that the complaint, taken at its face value, does not disclose the commission of the above offences. However, at a later stage, he offered that the complainant had made a statement under Section 164 of CrPC in which she had allegedly retracted the allegations. Mr Naik further pointed out that the complainant had even given her no objection to granting anticipatory bail to the Petitioner. Considering these circumstances, Mr Naik submits that the F.I.R. should be quashed.

5. Mr Bhobe opposes this petition. He firstly points out that the victim/complainant had not even been impleaded as the respondent. Secondly, he points out that the F.I.R. cannot be quashed based upon some statement under Section 164 of CrPC. Thirdly, he submits that the complaint/F.I.R., being taken at its face value, discloses the commission of offences for which the Petitioner is charged. Finally, Mr Bhobe submits that the Petitioner and the complainant cannot use the police and Court machinery in this manner, and even anticipatory bail cannot be granted based on the N.O.C. of the complainant.

6. The rival contentions now fall for our determination.

7. The F.I.R. is based upon a complaint dated 09.02.2023. Therefore, while instituting this petition, the Petitioner should have adopted necessary precautions to mask the name of the complainant/victim. Be that as it may, the Registry is now directed to immediately redact references to the complainant/victim.

8. The complaint is on page 18 of the paper book. Though we were considering transcribing the complaint, the interest of justice requires that the same is not transcribed in this order though the complaint can remain part of the record of these proceedings after redaction. The Registry should place in a sealed cover the name and identity of the complainant/victim.

9. The complaint/F.I.R., at its face value, does disclose the commission of offences for which the Petitioner has been charged. Only subsequent statements allegedly made by the victim/complainant cannot be grounds for quashing the F.I.R. by exercising our powers under Section 482 of CrPC or Article 226 of the Constitution. This is not some consent petition filed by the parties. Even consent petitions cannot, in such matters, be readily accepted. Ultimately, rape is an offence against society though the complainant may be the immediate victim of this offence.

10. Further, we are slightly disturbed about the order dated 04.03.2023 on the Petitioner's application for anticipatory bail. It is one thing to grant such anticipatory bail upon considering the entire material on record and applying the settled parameters for the grant or refusal of anticipatory bail. However, it is quite another matter where anticipatory bails are granted only based upon the N.O.C. of the complainant. We leave the matter at that for the present. But relying upon the bail order, no exceptional case is made out to quash the impugned F.I.R. None of the tests in Bhajan Lal's Case were made

out. At this stage, the contention about the complaint being false cannot be gone into. If taken at its face value, the complaint discloses the commission of offences for which the Petitioner is charged.

11. For all the above reasons, we dismiss this petition. However, the observations in the above order are not intended even remotely to affect the Petitioner's interest during the trial. Instead, these observations are for the limited purpose of considering whether any case has been made out to quash the impugned F.I.R.

12. The petition is dismissed without any order for costs.

VALMIKI SA MENEZES, J.

M.S. SONAK, J.

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