

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No. 41 OF 2014
(arising out of S.L.P.(Crl.) No. 5194 of 2013)

GURNAM SINGH GILL ... APPELLANT(S)

VERSUS

STATE OF RAJASTHAN & ANR. ... RESPONDENT(S)

O R D E R

The petitioner, aggrieved by Order dated 17.04.2013 passed by the Rajasthan High Court in S.B. Criminal Miscellaneous Petition No. 1006 of 2011 has preferred this special leave petition.

Leave granted.

Kamla Devi, respondent No. 2 herein, filed a complaint alleging commission of the offence under Section 376 of the Indian Penal Code ("IPC" for short). The learned Magistrate referred the complaint for investigation Under Section 156(3) of the Code of Criminal Procedure ("Cr.P.C." for short). The case was investigated by the Police and the allegation was found to be false. After the report was submitted to the learned Magistrate, he gave notice to the informant who prayed for acceptance of the report. The learned Magistrate by Order dated 22.03.2011 accepted the report. Thereafter, respondent No. 2 preferred an application before the High Court under Section 482 of the Cr.P.C. challenging the said order. The High Court by the impugned order has set aside the order of the learned Magistrate and remitted the matter back for its consideration in accordance with law.

Learned counsel for the appellant contends that allegation made against the appellant was found to be false and, in fact, the final report was accepted by the learned Magistrate on the prayer made by the complainant, respondent No. 2 herein, and hence the High Court ought not to have set aside the said order.

Learned counsel appearing for respondent No. 2-complainant, however, submits that she asked for acceptance of the final report due to coercion and, hence, the High Court rightly set aside the order.

We have bestowed our consideration to the rival submissions and we find substance in the submissions of the learned counsel for the appellant.

Leave granted.

The appeal is allowed in terms of the signed order.

| (S.K. Rakheja)
| Court Master

| |(Indu Satija)
| |Assistant Registrar

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(Signed order is placed on the file)