2002 Y L R 136

[Lahore]

Before Khawaja Muhammad Sharif, J

AZAM WATTO and others---Petitioners

Versus

THE STATE---Respondent

Criminal Miscellaneous No. 7475 of 2001, decided on 21st December, 2001.

Criminal Procedure Code (V of 1898)---

----S.498---Penal Code (XLV of 1860), S.364-A---Pre-arrest bail---Considerations for grant of bail before arrest and after arrest were totally different---Victim, a minor girl got an employment with the co-accused through the accused and the girl had not been recovered---Bail application was dismissed by the Trial Court and for four months the accused did not apply for bail before any Court---Offence against the accused fell within the prohibitory clause under S. 497, Cr. P. C. and it was not known as to whether the victim girl was still alive or not-- Application for grant of bail was dismissed.

Ch. Sajad Tabbasum for Petitioners.

Imtiaz Ahmad Chaudhry for the State.

ORDER

Facts of the case are that complainant Waryyam father of Rubina aged 8/9 years got an employment through the present petitioners, for the said minor Rubina in the house of Begum Faisal resident 273/L Model Town, later on the said minor Rubina was not available, complainant had been demanding the return of Rubina but he was unsuccessful.

2. Learned counsel for the petitioners submits that real accused in this case are Faisal and his wife, that petitioners have nothing to do with the present case, that they had got the employment to Rubina with the consent of her parents, that no case und: section 364-A P.P.C. is made out against t petitioners.

3. On the other hand, learned counsel for the State submits that though the said Rubina minor girl was handed over to Faisal and his wife but with the consent of complainant party. He further submits that till today the said minor girl is not recovered. S.I. present in Court submits that Faisal is still at large proceedings under section 87 of 1988 have been initiated against him but submits that Mrs. Faisal was not joined in the investigation being a woman. I have asked him as to quote any provision of law under which the proceedings cannot be initiated against a woman being an accused, he has no answer. He submits that investigation is being conducted by SHO of concerned Police Station.

4. I have heard learned counsel for the parties. . It was the petitioners through whom minor girl Rubina got an employment with Faisal and his wife, she has not been recovered so far. This is a case of bail before arrest. Considerations for the grant of bail before arrest and after arrest are totally different. Their application was dismissed in' August, 2001 by learned Additional Sessions Judge and for four months they did not

apply for bail before any court, offence falls within the probability clause of section 497 (1), Cr.P.C. God better knows whether Rubina is still alive or not. This petition is dismissed. However, I direct S.P Model Town, Lahore to look in to the matter personally and see to it that why till today. Faisal has not been arrested and for what ulterior motive the Investigation Officer has not joined Mrs. Faisal who is an accused in this case. Report shall be submitted by S.P. Model Town, Lahore within two weeks to D.R. (Judi.) without fail.

H.B.T./A-372/L Petition dismissed.

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