

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on: 26.07.2021
Pronounced on: 06.08.2021

CRMC No. 389/2014
IA No. 451/2014

Mohd. Shawl Khan

...Appellant/Petitioner(s)

Through :- Mr. Sunil Sethi, Sr. Advocate with
Mr. Shanum Gupta, Advocate

v/s

State of J&K and others

.....Respondent (s)

Through :- Mr. Aseem Sawhney, AAG
Ms. Meenakshi Salathia, Advocate for
complainant

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The present petition has been filed by the petitioner for quashing of Closure report titled "State vs. Nemo", being file No. 3/IKHT dated 31.01.2013 arising out of FIR bearing No. 5/2012 registered with Police Station Bahu Fort, Jammu for commission of offence under section 366 RPC and also order dated 25.03.2013 passed by the learned Special Municipal Mobile Magistrate, Jammu by virtue of which the closure report has been accepted.

2. The petitioner has sought quashing of the Closure report as well as order dated 25.03.2013 passed by the learned Special Municipal Mobile Magistrate, Jammu only on the ground that the petitioner was not served with a notice by the learned Special Municipal Mobile Magistrate, Jammu before accepting the Closure report.

3. Mr. Sunil Sethi, learned senior counsel for the petitioner has vehemently argued that the petitioner has not been heard by the learned Special Municipal Mobile Magistrate, Jammu before passing order impugned.

4. Mr. Aseem Sawhney, learned AAG submits that the order impugned has been correctly passed.

5. Heard and perused the record.

6. From the record, it is evident that the petitioner herein lodged FIR bearing No. 5/2012 with Police Station, Bahu Fort, Jammu for commission of offence under section 366 RPC and during the course of investigation, the statement of the missing girl was also recorded under section 164-A Cr.P.C by the court of learned 2nd Additional Munsiff, Jammu on 21.12.2012 and in her statement, she has never deposed that she was ever abducted by accused, namely, Parmeet Singh. After recording the statement of the girl, the closure report was filed, that also contains statement of the petitioner recorded under section 161 Cr.P.C. When a girl herself made a statement that she was never abducted then only option before the Investigating Officer was to file closure.

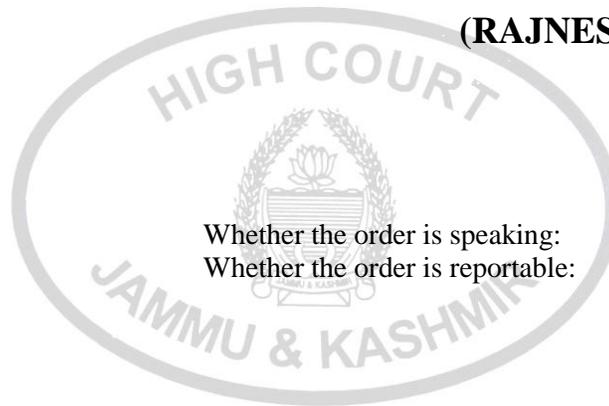
7. A perusal of the order impugned reveals that the petitioner herein despite notice, did not choose to appear before the court and as such, the court was left with no other option but to accept the closure report. Learned Special Municipal Mobile Magistrate, Jammu while accepting the closure report has accorded due consideration to the statement of the prosecutrix recorded under section 164-A Cr.P.C and has also observed that despite summons issued to the complainant-petitioner herein, he did not turn up and as such, in view of the statement of the girl, the closure report was accepted.

8. The petitioner herein has not been able to demonstrate as how the order passed by the learned Special Municipal Mobile Magistrate, Jammu is bad

in eye of law, particularly when the prosecutrix herself has stated that she was never abducted by the accused as well as co-accused and also even otherwise, assuming the contention of the petitioner is to be true that he was not aware about the filing the closure report, even in that case, it would not make any difference as once the prosecutrix i.e. missing girl, who herself stated that she was not abducted, the Investigating Officer was under obligation to close the said FIR as not admitted and file the closure report.

9. In view of what has been stated above, the present petition is dismissed along with connected IA.

JAMMU
06.08.2021
Neha



(RAJNESH OSWAL)
JUDGE

Whether the order is speaking:
Whether the order is reportable:

Yes
No