
(2004) 10 RAJ CK 0028

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 866 of 2004

Aanjana (Smt.) and Another

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 19-10-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 323, 406, 498A

Citation : (2005) 2 RLW 988

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : R.S. Chundawat and P.S. Rathore, for the Appellant; O.P. Rathi, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

H.R. Panwar, J.—An application has been filed on behalf of Hari Shanker through his counsel Mr. P.S. Rathore seeking transposition of respondent No. 2 Hari Shanker as petitioner. From the petition filed by Smt. Aanjana W/o Hari Shanker, it appears that respondent Hari Shanker has common cause and seeks the similar relief. In the circumstances therefore, the application seeking transposition is allowed. Respondent No. 2 be impleaded as transposed petitioner No. 2. Amended cause title has already been filed. With the consent of the learned counsel for the parties, the petition is finally heard and is being disposed of at the admission stage.

2. By the instant petition u/s 482 CrPC, petitioner seek quashing the proceedings in Criminal Regular Case No. 107/2004 pending before the Judicial Magistrate No. 2, Bhilwara for the offences u/s 498A IPC.

3. The facts of the case, in a nut shell, are that petitioner No. 1 filed a complaint before the Trial Court, on which ultimately an FIR u/s 498A, 406 and 120B of the Indian Penal Code was lodged against the accused Hari Shanker, who is petitioner No. 2 herein and after investigation, challan u/s 498A, IPC has been

filed before the Trial Court and the proceedings are pending before the learned Trial Court. On 18.8.2004, the petitioner filed an application before the Trial Court for dropping the proceedings on the ground that a compromise has been arrived at between the parties. However, the Trial Court dismissed the said application vide impugned Order dated 27.8.2004 on the ground that the offence u/s 498A, IPC is not compoundable. Hence this miscellaneous petition.

4. It has been contended by the learned counsel for the petitioner that since the parties have arrived at a compromise, therefore, the criminal proceedings pending against the petitioner No. 2 for the offence u/s 498A, IPC are liable to be quashed in view of the law laid down by the Hon''ble Supreme Court in B.S. Joshi and Others Vs. State of Haryana and Another,

5. I have heard learned counsel for the parties and perused the record.

6. In B.S. Joshi's case (supra), the Hon''ble Supreme Court, the appellants sought quashing of FIR due to settlement of disputes between the husband and wife, who agreed to mutual divorce and the wife supported'' quashing of the criminal proceedings under Sees. 498-A, 323 and 406 IPC. In that case, the Hon''ble Apex Court held that where there are almost no chance of conviction, it would be improper to decline to exercise power of quashing the proceedings on the ground that it would be permitting the parties to compound non-compoundable offences. The Apex Court observed that Section 320 CrPC does not limit or affect the powers u/s 482 CrPC. The Apex Court further observed that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier and that would be against the object of Section 498A, IPC. The Apex Court further held as under:-

"The object of introducing Chapter XX-A in IPC was to prevent torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. A hyper technical view would be counterproductive and would act against the interests of women and against the object for which this provisions was added. There is every likelihood that non- exercise of, inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. This is not the object of Chapter XX-A of IPC."

7. In Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandojirao Angre and Others, the Hon''ble Apex Court held that while exercising inherent power of quashing u/s 482 CrPC, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. The special features in such matrimonial matters are evident and it becomes the duty of the Court to encourage genuine settlement of matrimonial disputes.

8. In the instant case, both the petitioners, who are husband and wife, have

arrived at a compromise and verifying the factum of compromise. When the parties have arrived at a compromise to drop the criminal proceedings, then there are almost no chances of conviction. Further, in view of the decisions of the Hon"ble Supreme Court in B.S. Joshi's case (supra) and Madhavrao Jiwanjirao Scindia's case (supra), for encouraging genuine settlements of matrimonial disputes between the parties, no useful purpose will be served in continuing the criminal proceedings against the petitioner No. 2.

9. Consequently, the miscellaneous petition is allowed. The criminal proceedings in Criminal Regular Case No. 107/2003 pending against the petitioner No. 2 before the Judicial Magistrate No. 2, Bhilwara for the offence u/s 498A, IPC is hereby quashed.