
(2010) 04 UK CK 0043
In the Uttarakhand High Court

Ajay Kumar Agarwal and Others

APPELLANT

Vs

State of Uttaranchal and Smt. Radha Devi

RESPONDENT

Date of Decision : 05-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 403, 406, 498A, 504, 506

Citation : (2010) 04 UK CK 0043

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—Heard.

2. All these petitions, relate to the criminal cases arising out of same matrimonial dispute, and are being taken up together for their disposal. By means of these petitions, moved u/s 482 of Code of Criminal Procedure, 1973, (for short Cr.P.C.) the petitioners have sought quashing of the proceedings of criminal complaint case No. 1470 of 2005, Smt. Radha Devi v. Ajay Kumar Agarwal, relating to offence punishable u/s 403 I.P.C., and criminal case No. 1436 of 2005, State v. Ajay Kumar Agarwal and Ors., relating to offences punishable under Sections 498A, 406, 504, 506 I.P.C. and one punishable u/s ? Dowry Prohibition Act, 1961, pending in the court of Judicial Magistrate, Khatima.

3. Learned Counsel for the petitioners submitted that parties to the matrimony have entered into compromise on 11.06.2007, during the pendency of these petitions. It is further pointed out that after the parties to the matrimony entered into compromise, they have sought decree of divorce u/s 13B of Hindu Marriage Act, 1955. A certified copy of the judgment and order dated 24.04.2008, passed by Judge, Family Court, Udham Singh Nagar, in divorce petition No. 120 of 2007, is filed as annexure-2 (annexed in petition No. 322 of 2006) to the supplementary affidavit, filed during the pendency of these petitions, which

shows that the parties to the matrimony have already separated by decree of divorce. It is pleaded on behalf of the petitioners that respondent No. 2-Radha Devi (complainant) has already got remarried after obtaining decree of divorce. Copy of compromise, which is filed as annexure-1 (annexed in petition No. 322 of 2006) to the supplementary affidavit, filed during the pendency of the petition, shows that the complainant had already agreed to withdraw the criminal cases.

4. In the above circumstances, in view of principle of law laid down in B.S. Joshi and Others Vs. State of Haryana and Another, 4 Supreme Court Cases 675, the proceedings of criminal cases, are liable to be quashed.

5. Accordingly, proceedings of criminal case No. 1470 of 2005, Smt. Radha Devi v. Ajay Agarwal, wherein the petitioners have been summoned relating to offence punishable under Sections 403 I.P.C. and criminal case No. 1436 of 2005, State v. Ajay Kumar Agarwal and Ors., relating to offences punishable under Sections 498A, 406, 504, 506 I.P.C. and one punishable u/s ? Dowry Prohibition Act, 1961, pending in the court of Judicial Magistrate, Khatima, are hereby quashed.

6. Petitions, accordingly, stand allowed. (Misc. application No. 252 of 2010, stands disposed of).