

(2015) 02 KAR CK 0020
In the Karnataka High Court
Case No : Criminal Petition No. 480/2015

Ajmal Pasha and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 03-02-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 89
Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 313, 34, 498, 498-A

Citation : (2015) 02 KAR CK 0020

Hon'ble Judges : N. Ananda, J.

Bench : Single Bench

Advocate : Irshad Ahmed K., Advocate, for the Appellant; Vijayakumar Majage, HCGP, for the Respondent

Final Decision : Allowed

Judgement

N. Ananda, J.—The learned High Court Government Pleader takes notice for the first respondent - State. Sri A.S. Kulkarni, learned counsel files power for second respondent - complainant.

2. The first petitioner Ajmal Pasha (husband) and second respondent Smt. Thaseen Begum (wife) are present before this court. They have filed a joint memo reading as under:

"JOINT MEMO

The petitioner Nos. 1 to 3 and the Respondent No. 2 named above most respectfully file this Joint Memo as under:

1. We submit that the petitioners/accused Nos. 1 to 3 have filed this Criminal Petition under Section 482 of the Cr.P. Code to quash the First Information Report filed against the petitioners in the Ashoknagar Police Station Crime No. 300/2014 for the alleged offence punishable under Section 498-A , 313 r/w. Section 34 of

Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act, on the file of the learned XI Addl. Chief Metropolitan Magistrate, Bengaluru, which was registered on the basis of the complaint lodged by the Respondent No. 2. The averments made in the said petition may kindly be read as part and parcel of this joint memo to avoid the repetition.

2. We submit that at the instance of elders and well-wishers the petitioners and Respondent No. 2 settled their disputes amicably and decided to dissolve the marriage by way of Khula and lead their life separately and happily. Consequently, the Petitioner Nos. 1 to 3 and the Respondent No. 2 executed and submitted memorandum of settlement under Section 89 of the Code of Civil Procedure Read With Rules 24 and 25 of the Karnataka Civil procedure (Mediation) Rules, 2005 dated 23.12.2014 in C. Misc. No. 119/20014 on the file of the Hon'ble Metropolitan Magistrate Traffic Court-V, Bengaluru reporting settlement of all their differences, litigations and claims against each other. The petitioners submit that Para Nos. 2, 3 and 4 of the said settlement dated 23.12.2014 in

C. Misc. No. 119/2014 reads as under:

"2. That the parties herein due to irreconcilable differences between them and due to incompatibility of temperaments have been living separately since from April 2014. It is for that reason, they are unable to lead a married life, and both the parties state that their marriage is irretrievably broken down and it is stated by the parties that the 1st Respondent has already pronounced triple Thaluk, however, during the course of mediation both the parties agreed to dissolve their marriage by executing a Khula Nama at the time of disposal of this case.

3. In view of the above agreement reached between the petitioner and the 1st Respondent, the 1st respondent has agreed to pay a sum of Rs. 4,50,000-00 (Rupees Four Lakh Fifty Thousand Only) to the petitioner towards full and final settlement of all her claims.

4. In view of the above agreement arrived between the parties, the parties undertake to approach competent court/forum, for appropriate relief in Crime No. 300/2014 lodged before Ashok Nagar Police Station, Bangalore filed under Sec. 498 r/w Sec. 313 of IPC read with 3 and 4 of Dowry Prohibition Act, pending on the file of XI-ACMM, Mayo hall, Bangalore. The 1st respondent has agreed to pay the aforesaid amount Rs. 4,50,000.00 (Rupees Four Lakh Fifty Thousand Only) on the date of disposal of the aforesaid Crime No. 300/2014 and also agreed to return all valuable household articles belonging to the petitioner at the time of disposal of the above Case.

3. We submit that in view of the settlement arrived at between the parties, on 29.12.2014 the petitioners returned all valuable household articles belonging to the respondent No. 2 under acknowledgement.

4. We submit that in view of the settlement arrived at between the parties, on

29.12.2014 the marriage between the petitioner No. 1 and respondent No. 2 was dissolved by way of Khula executed by and between the petitioner No. 1 and the respondent No. 2

5. We submit that view of the settlement arrived at between the parties today the Petitioner No. 1 is paying a sum of Rs. 4,50,000/- (Rupees Four Lakhs Fifty Thousand only) to the Respondent No. 2 by way of Demand Draft before this Hon"ble Court bearing No. 163120 dated 3.2.2015 drawn on Industrial Bank, M.G. Road Branch to the 2nd respondent-Thaseen Begum.

6. We submit that the dispute is basically matrimonial in nature and the parties have resolved their entire dispute out of their free will without any force or duress. Hence it is just and necessary to quash the charge sheet filed against the petitioners.

7. We submit that the matter is settled out of court and the respondent No. 2 has no objection to quash the First Information Report against the petitioners.

8. We submit that the matter is purely private, personal and matrimonial in nature and the petitioner No. 1 and respondent No. 2 have decided to live separately. In order to facilitate them to live happily and move on in the life, it is just and necessary to quash the First Information Report by exercising the powers under Section 482 of Cr.P.C. as held by the Hon"ble Supreme Court in the matter of Gian Singh Vs. State of Punjab and Another, and in the matter of Jitendra Raghubanshi & others v. Babita Raghubanshi & Another (2012 (4) S.C.C. 58).

Wherefore, the petitioners and the respondent No. 2 most respectfully pray that this Hon"ble Court may be pleased to quash the First Information Report against the petitioners/accused No. 1 to 3 in the Ashoknagar Police Station Crime No. 300/2014 for the alleged offence punishable under Section 498-A , 313 r/w. Section 34 of Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act, on the file of the learned XI Addl. Chief Metropolitan Magistrate, Bengaluru, in the Interest of Justice equity."

3. The second respondent wife has received a sum of Rs. 4,50,000/- in the form of demand draft from the first petitioner towards full and final settlement of the compensation payable to her.

4. The first petitioner and second respondent submit that their marriage has been dissolved under Khula Nama" and they are living separately.

5. In view of the settlement of matrimonial disputes between the first petitioner and the second respondent, continuation of proceedings in Crime No. 300/2014 for offence punishable under Sections 498-A , 313 read with Section 34 of IPC and Section 3 & 4 of the Dowry Prohibition Act on the file of XI Addl. CMM, Bengaluru, will not serve any purpose. On the other hand, it may revive the disputes which the parties have settled by now.

The petition is accepted. The impugned proceedings are quashed.