
(2011) 02 RAJ CK 0075

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 70 of 2011

Anil Kumar Agrawal and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 08-02-2011

Acts Referred:

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

Citation : (2011) 2 RLW 1595

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—Both, Petitioners and non-Petitioner complainant are present in the Court and duly identified by their respective counsel.

2. I have heard learned Counsel for the parties.

3. The Petitioners are facing trial before the learned Addl. Judl. Magistrate (Jr. Dn.) No. 2, Jodhpur for offences under Sections 406 and 498A I.P.C. in Criminal Case No. 402/2010 as a sequel to the complaint of non-Petitioner No. 2 Reema Bansal. Case of the Petitioners is that in the criminal case arising out of FIR No. 120/2009, P.S. Mahila Thana, Jodhpur, challan was filed against the Petitioners before the trial Court. Trial Court registered Case No. 402/2010 against the Petitioners for offences u/s 498A and 406, I.P.C., in which, after compromise, an application seeking permission from the Court to compromise the matter was filed along with the compromise deed for compounding the offences in view of the compromise arrived at in between the parties. Vide the impugned order dated 08.12.2010, the learned Addl. Judl. Magistrate accepted the compromise in respect of offence u/s 406, I.P.C. and granted permission to the parties to compound the offence; but, in respect of offence punishable u/s 498A, I.P.C. the learned Magistrate rejected the application for compounding the offence because as per Section 320, Code of Criminal Procedure said offence is not compoundable.

4. Learned Counsel for the Petitioners as well as counsel appearing on behalf of the non-Petitioner complainant submit that in view of the judgment of the Hon"ble Supreme Court in the case of B.S. Joshi and Others Vs. State of Haryana and Another, if compromise has been arrived at in between the parties for offence u/s 498A, I.P.C., then, such compromise can be accepted while exercising power u/s 482, Code of Criminal Procedure

5. I have perused the judgment rendered by the Supreme Court in the case of B.S. Joshi v. State of haryana and Anr. (supra). Dealing with the same controversy with reference to the exercise of jurisdiction u/s 482, Code of Criminal Procedure it has been held by the Supreme Court that even if the offence is not compoundable but to secure the ends of justice the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code.

6. In view of the above, the present miscellaneous petition is allowed. The compromise filed before the trial Court for offence u/s 498A, I.P.C. Is accepted and while following the judgment of the Hon"ble Supreme Court in B.S. Joshi's case (supra) order dated 08.12.2010, so far as rejection of compromise for offence u/s 498A, I.P.C. is concerned, is set aside and proceedings pending in the trial Court are hereby quashed. Permission is hereby granted to the parties to compound the offence u/s 498A, I.P.C., provided that by the effect of the compromise arrived at in between the parties, none of the parties shall be entitled to file any other litigation in respect of the subject-matter of the present case.