
(2007) 09 JH CK 0004
In the Jharkhand High Court

Anjan Kumar Roy and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 26-09-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 320
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2008) 1 JCR 655

Hon'ble Judges : R.R. Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad, J.—This application filed u/s 226 of the Constitution of India is directed against the order dated 29.7.2006 passed by 1st Additional Sessions Judge, East Singhbhum, Jamshedpur in Cr. Rev. No. 115 of 2006 whereby prayer of the petitioners to quash the proceeding on the ground of lack of jurisdiction was refused.

2. Learned Counsel appearing for the petitioners submits that opposite- party No. 2 lodged a case before the Sonari Police Station stating therein that she was married to the petitioner No. 1 in the year 1992 and in course of time members of in-laws" family (petitioners) started demanding part of her earning which she used to earn by teaching in a school and in order to get the demand fulfilled, she was being subjected to torture and on the said allegation, a case was registered u/s 498A/34 of the Indian Penal Code as well as Section 3/4 of the Dowry Prohibition Act. Subsequently, when the cognizance of the offence was taken by the Court of Sub-Divisional Judicial Magistrate, Jamshedpur, the power raised question of jurisdiction of the Court as no cause of action accrued under the territorial jurisdiction of the Court but the objection raised on behalf of the petitioners was overruled and then the petitioners had to prefer Criminal Revision application before the Court of Sessions which also met with the same fate and

then this writ (criminal) application has been filed but during the pendency of this writ application, significant development, having bearing on the case took place. In this regard it was pointed out that the parties have come to an agreement whereby husband of the informant had to pay one time payment of Rs. 6 lacs which the husband of the informant already paid and that an application u/s 125 of the Code of Criminal Procedure filed before the Principal Judge, Family Court, Jamshedpur was also withdrawn and not only that a decree of divorce on mutual consent on filing application u/s 13(2) of the Hindu Marriage Act has already been passed by the competent Court and under that situation a joint compromise petition has been filed before the Court below but as the trial Court would be hesitant in passing the order on that application the matter relating to quashing of the entire proceeding is being pressed here keeping in view the ratio laid down in a case of B.S. Joshi and Others Vs. State of Haryana and Another, wherein it has been held categorically that it becomes the duty of the Court to encourage genuine settlement in matrimonial dispute. The Court goes on further to say that any hyper-technical view would be counter productive and would act against the interest of a woman and against the object for which provision was added.

3. Learned Counsel appearing for the petitioners submits that keeping in view the principle laid down by the Supreme Court in the aforesaid case, this Court has also been allowing the parties to compound the offence committed u/s 498A of the Indian Penal Code even at the revisional stage and, therefore, under the aforesaid situation, the entire criminal proceeding is fit to be quashed.

4. Learned Counsel appearing for the opposite-party No. 2 submits that parties having come to an amicable settlement have already observed part of their obligations and as such no one should be allowed to face rigor of the trial.

5. Having heard learned Counsel appearing for the parties, I may say that though the offence u/s 498A of the Indian Penal Code does not find mention u/s 320 of the Code of Criminal Procedure and as such it cannot be compounded in terms of the said provisions but the Supreme Court in a case of B.S. Joshi and Ors. v. State of Haryana and Anr. (supra) after taking into consideration so many aspects of the matter including the object under which matrimonial dispute was made penal u/s 498A of the Indian Penal Code did observe that it becomes the duty of the Court to encourage genuine settlements in matrimonial dispute and any hyper-technical view would be counter productive and would act against the interest of a woman and against the object for which provision was added.

6. Keeping in view the above facts and circumstances as well as the ratio laid down by the Supreme Court in the case, referred to above, it would be against the interest of the parties, if they are allowed to face rigor of the trial when the parties have come to amicable settlement. Accordingly, entire proceeding of a case being G.R. No. 1209 of 1999 pending in the Court of Sub-Divisional Judicial Magistrate, Jamshedpur is hereby quashed.

In the result, this application is allowed.