

(2005) 05 AHC CK 0123

In the Allahabad High Court

Case No : Criminal Misc. Application No. 5867 of 2005

Arun Kumar Sharma, Harveer Singh, Smt. Bala and Km.
Sarika

APPELLANT

Vs

State of U.P. and Smt. Reena

RESPONDENT

Date of Decision : 20-05-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(2), 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2005) 05 AHC CK 0123

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Advocate : Amit Daga, for the Appellant; Sunil Vashishth and A.G.A., for the Respondent

Final Decision : Allowed

Judgement

Poonam Srivastava, J.—Heard learned counsel for the applicants, Sri Sunil Vashishth, Advocate appearing for the opposite party No. 2 and learned A.G.A. for the State.

2. This is an application u/s 482 Cr.P.C. for quashing the charge sheet dated 5.3.2005 and the criminal proceedings initiated on the basis of said charge sheet vide criminal case No. 663/9 of 2005, State v. Arun Kumar and Ors. under Sections 498A, 323, 504, 506 I.P.C. read with Section 3/4 Dowry Prohibition Act pending in the court of Judicial Magistrate IIInd, Meerut.

3. Facts of the case are that the marriage of the applicant No. 1 was solemnized with opposite party No. 2 on 4.7.2002 according to the Hindu Rights. Thereafter, the opposite party No. 2 and applicant No. 1 started living as husband and wife. It has been stated in paragraph No. 8 of the affidavit filed in support of the application that due to some misunderstanding, the First Information Report was registered at case crime No. 30 of 2005 under Sections 498A, 323, 504, 506

I.P.C. read with Section 3/4 Dowry Prohibition Act on 6.2.2005. A counter affidavit has been filed on behalf of the opposite party No. 2 wherein it has clearly been admitted in paragraph No. 7 by Smt. Rina opposite party No. 2, that the First Information Report was lodged on account of misunderstanding created by some mediators of both the families. After registration of the First Information Report, the applicants filed a criminal misc. writ petition No. 2192 of 2005 for quashing the First Information Report. However their arrests was stayed till submission of the police report u/s 173(2) Cr.P.C. and the condition was imposed that the Applicant shall pay Rs. 2,000/- per month to the opposite party No. 2 towards maintenance through Bank draft. The said part of the order was complied with and the arrests continued to be stayed during the period when the investigation was going on. Subsequent, the misunderstanding between the husband and wife was cleared and finally it ended in a compromise dated 18.3.2005 since then the applicant No. 1 and opposite party No. 2 are residing as husband and wife. This compromise was communicated to the Investigation Agency but in spite of it, impugned charge sheet has been filed in the court. Since the charge sheet was tiled in respect of certain offence, which is not compoundable. This application u/s 482 Cr.P.C. has been filed for quashing the same. The applicant has prayed for quashing the charge sheet on the basis of a principle laid down by the Apex Court in the case B.S. Joshi and Ors. v. State of Haryana and Anr. 2003 (46) ACC, page 779, it has been held that where very basis or foundation of prosecution case is eroded by parties coming to the settlement in matrimonial disputes, mere technicality that offence involved is a non compoundable one, should not be allowed to stand in the way of quashing of the proceedings by the High Court in exercise of inherent powers u/s 482 Cr.P.C. In the circumstances, on the face of clear admission by the opposite party No. 2 in her counter affidavit filed in the Court today, which is taken on record. It is evident that she has no intention to continue with the prosecution of the applicants. Similar view was taken by this Court in the case of Jitendra Rajpal and Ors. v. State v. State of U.P. and Ors., All India Judicial Interpretation of Crimes 2001 JIC page 353, where it has been held that when the parties had settled the disputes and the wife is not desirous to continue the prosecution case and the continuance of the proceedings will result waste of the public time and money, and will also cause harassment to the parties. In another recent case 2005 ACC (51) 236. this Court has quashed the charge sheet.

4. In view of the aforesaid discussion, the impugned charge sheet dated 5.3.2005 and the further proceeding in criminal case No. 663/9 of 2005 u/s 498A, 323, 504, 506 I.P.C. read with Section 3/4 Dowry Prohibition Act is hereby quashed. This application stands finally allowed.