

(2012) 02 JH CK 0072
In the Jharkhand High Court
Case No : Criminal M. P. No. 35 of 2012

Arvind Yadav and others

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 07-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 34, 498A

Citation : (2012) 02 JH CK 0072

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Ranjan Prasad

1. Heard the parties.

2. This application has been filed u/s 482 Cr.P.C. for quashing of the entire criminal proceeding of Manoharpur P.S. Case No. 25 of 2010, including the order dated 9.6.2011 passed by S.D.J.M., Porahat at Chaibasa in G.R. No. 215 2010 whereby and whereunder, cognizance of the offences under Sections 498A, 323/34 of Indian Penal Code and also under Sections 3/4 of Dowry Prohibition Act has been taken against the petitioners who, on the allegation that they subjected the informant to cruelty on account of non-fulfillment of demand of dowry, have been made accused in that case.

3. Learned counsel for the petitioners submits that after lodgment of the case, good sense prevailed upon the parties who have settled their disputes amicably by deciding to part with their ways and as such, application for grant of divorce on mutual consent has been filed and a joint compromise petition has been filed before the court below, copy of which has been annexed with this application. Under these situations, the same be accepted and the instant prosecution be

quashed in view of the ratio laid down in a case of B.S. Joshi and Others Vs. State of Haryana and Another, .

4. Having heard learned counsel appearing for the petitioners and the State and on perusal of the records, It does appear that after the case was lodged, the parties came to certain agreements, whereby it was decided that both the parties will have divorce on mutual consent and in fact the divorce has been granted to the informant on mutual consent for which application for divorce on mutual consent has already been filed and taking into account this aspect of the matter, it becomes expedient to quash the proceeding in view of the ratio laid down in a case of Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandojirao Angre and Others, , wherein it has been held that while exercising inherent power of quashing u/s 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceeding.

5. Subsequently, the Hon''ble Supreme Court taking notice of the said decision observed in a case of B.S. Joshi and others (supra) that the special features in such matrimonial matters are evident and hence it becomes the duty of the court to encourage genuine settlement of matrimonial disputes.

6. As I have stated above that the parties have settled their disputes amicably, there would be hardly any scope for the petitioners being convicted in the case. In that view of the matter, it becomes expedient to quash the order taking cognizance as well as entire criminal proceeding.

7. Accordingly, the entire criminal proceeding of Manoharpur P.S. Case No. 25 of 2010, including the order dated 9.6.2011 passed by the S.D.J.M., Porahat at Chaibasa in G.R. No. 215 2010 under which cognizance of the offences has been taken against the petitioners under Sections 498A, 323/34 of Indian Penal Code as also under Sections 3/4 of Dowry Prohibition Act, is hereby quashed.

8. In the result, this application is allowed.