
(2008) 06 CAL CK 0044
In the Calcutta High Court
Case No : C.R.R. No. 1492 of 2008

Atish Agarwala and Others

APPELLANT

Vs

The State of West Bengal and Another

RESPONDENT

Date of Decision : 27-06-2008

Acts Referred:

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

Citation : (2008) 4 CALLT 82 : (2008) 4 CHN 394 : (2009) 2 DMC 817

Hon'ble Judges : Ashim Kumar Roy, J

Bench : Single Bench

Advocate : Phiroze Edulji, for the Appellant; Tirthankar Ghosh and Kaushik Kundu for O.P. No. 2 and Debabrata Roy, for the Respondent

Final Decision : Allowed

Judgement

Ashim Kumar Roy, J.—Invoking the provisions of Section 482 of the Code of Criminal Procedure, the petitioners herein who are happened to be the husband and the relations of the husband, moved the instant criminal revision for quashing of the G.R. Case No. 525/07 now pending before the learned Additional Chief Judicial Magistrate, Serampore, Hooghly arising out of Rishra Police Station Case No. 42/07 under Sections 498A/406 of the Indian Penal Code on the ground that all disputes between the parties, which are purely in matrimonial disputes have been amicably settled out of Court and they are no longer interested to proceed against each other in a Court of law.

2. Mr. Phiroze Edulji, the learned Counsel, appearing on behalf of the petitioners submitted before this Court that the petitioner No. 1 is the husband of the opposite party No. 2, whereas the remaining three petitioners are his relations. He further submitted following some matrimonial disputes, a complaint in writing being lodged to the Rishra Police Station by the opposite party No. 2 herein against the present petitioners, the Rishra Police Station Case No. 42/07 under Sections 498A/406 of the Indian Penal Code was registered and the same gave

rise to G.R. Case No. 525/07 and is now pending before the learned Additional Chief Judicial Magistrate, Serampore, Hooghly. He further submitted that during the course of investigation the police has seized and recovered all the stridhan articles belonging to the opposite party No. 2 and after completion of investigation submitted charge sheet for the selfsame offence. According to Mr. Edulji the said matrimonial disputes between the petitioner No. 1 and the opposite party No. 2 has been amicably settled out of Court and they are no longer desirous to fight out such dispute in a Court of law and they have also filed a suit for dissolution of marriage on mutual consent being MAT Suit No. 688/07, which is now pending before the learned District Judge, Chinsurah, Hooghly. Mr. Edulji further submitted the parties has also filed a joint compromise petition supported by affidavits in connection with the instant criminal revisional application, where the opposite party No. 2, the defacto-complainant of the above noted case disclosed her intention not to proceed with the aforesaid case and as such for ends of justice it would be expedient to quash the impugned proceedings.

3. On the other hand, Mr. Tirthankar Ghosh, the learned advocate, appearing on behalf of the opposite party No. 2, the defacto-complainant of the aforesaid case admitted the correctness of submission made by Mr. Edulji. He further reiterated the matter has been amicably settled by and between the parties out of Court and they are not desirous to contest against each other in a Court of law and have also filed a matrimonial suit for dissolution of their marriage by mutual consent and a joint compromise petition in connection with the instant criminal revision. He submitted that in view of the fact that the opposite party No. 2 is not interested to proceed with the aforesaid case as the dispute has been settled by and between them, she has no objection if the aforesaid criminal proceeding is quashed.

4. Mr. Debabrata Roy, the learned Counsel, appearing on behalf of the State, submitted that the aforesaid case arises out of a matrimonial dispute and since the parties have settled their dispute out of Court, the State is not going to stand on their way to such settlement and accordingly the impugned proceedings may be quashed.

5. Heard, the learned advocate appearing on behalf of the petitioners. Perused the materials on record and more particularly the joint compromise petitions filed by the petitioner No. 1 and opposite party No. 2 supported by affidavits.

6. The impugned proceeding admittedly is an offshoot of a pure matrimonial dispute. It is also an admitted position the husband and wife has amicably settled their such dispute out of Court and are no longer desirous to fight out in a Court of law over the same against each other. They have also filed a suit for dissolution of marriage by mutual consent. In connection with this criminal revision the husband and wife have also filed a joint compromise petition supported by affidavits, wherein it has been admitted by them that they have settled their such matrimonial dispute out of Court and the defacto-complainant,

the opposite party No. 2 is not intended to proceed any further with the impugned proceeding against the present petitioners.

7. In view of the fact the matrimonial dispute between the parties have been amicably settled out of Court and such dispute being purely personal in nature and arose out of some matrimonial differences, without touching public policies and considering the submissions made by the learned advocates appearing on behalf of the parties, I am of the opinion that permitting the impugned proceeding to continue any further would lead to a complete abuse of process of Court and on the other hand it would be expedient in the interest of justice that the impugned proceeding be quashed.

8. In this connection it would be sufficient to refer the decisions of the Hon''ble Apex Court in the case of B.S. Joshi and Ors. v. State of Harayana and Anr. reported in 2003 SCC 848 and the very recent decision of the Hon''ble Apex Court in the case of Madan Mohan Abbot v. State of Punjab reported in 2008 (2) Sc 760.

9. For the reasons stated above, the instant criminal revisional application stands allowed and the impugned proceeding being G.R. Case No. 525/07 arising out of Rishra Police Station Case No. 42/07 under Sections 498A/406 of the Indian Penal Code stands quashed.

10. Urgent xerox certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible.