
(2011) 11 AHC CK 0010
In the Allahabad High Court
Case No : Criminal Revision No. 1147 of 2011

Atma Ram Prajapati and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 21-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 397, 401, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13(B), 9
Penal Code, 1860 (IPC) — Section 147, 323, 498(A), 504, 506

Citation : (2012) 1 ACR 565 : (2012) 1 ADJ 241

Hon'ble Judges : S.C. Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble S.C. Agarwal, J.—Affidavit filed today is taken on record.

Heard Sri Prakash Dwivedi, learned AGA for the State and Sri Vipin Chandra Pandey, learned counsel for the complainant- opposite party No. 2.

2. This revision u/s 397/401 Cr.P.C. is directed against the order dated 14.1.2011 passed by C.J.M., Mirzapur in Complaint Case No. 4485 of 2010, Pooja Devi v. Atma Ram and others, under Sections 147, 323, 504, 506, 498A IPC and 3/4 D.P. Act, P.S. Kotwali Katra, District-Mirzapur, whereby the revisionist-Atmaram Prajapati, Ramnath Prajapati, Ranno Devi, Dinesh Kumar, Mahesh and Anita were summoned to face trial, under Sections 147, 323, 504, 506, 498A IPC and 3/4 D.P. Act.

3. Since it is matrimonial dispute, in pursuance of order dated 24.2.2011 passed by Hon. B.K. Narayan, J, the matter was referred to Mediation and Conciliation of this Court.

4. Parties appeared before Mediation and Conciliation Centre of this Court on 20.4.2011 and 17.5.2011 and settlement was arrived at between the parties and

settlement-agreement was executed on 19.5.2011.

Para 5 of the settlement-agreement is as follows:

The parties hereto confirm and declare that they voluntarily and of their own free will arrived at this Settlement Agreement in the presence of the Mediation/ Conciliator.

a. That Sri Atma Ram Prajapati (revisionist No. 1-husband) and Smt. Pooja Devi (opposite party No. 2-wife) have amicably resolved all their matrimonial issues that have arisen between them over the years by opting for separation and divorce.

b. That wife Smt. Pooja Devi has accepted a sum of Rs. 1,00,000/- from her husband Atma Ram Prajapati through a demand draft bearing No. 964402 dated 16.5.2011 purchased from Punjab and Sindh Bank, Katra Bazi Rao Branch, Mirzapur as a lumpsum settlement of all her claims to maintenance, alimony, stridhan and other cognate claims by whatever name called.

c. That in addition, the husband has delivered to his wife a gold ring and a gold chain which Smt. Pooja Devi/ wife has accepted.

d. That both parties do now agree that they have no other claim monetary or otherwise against one another arising out of their matrimonial relationship.

e. that Atma Ram Prajapati and his wife Smt. Pooja Devi agree that they will file for divorce by mutual consent before the Judge, Family Court, Mirzapur within 15 days from date u/s 13B Hindu Marriage Act; and, both parties do further undertake that they will not withdraw their consent from those proceedings until decree for divorce is passed by the Family Court,. Both parties also agree that the Hon"ble Court may in its discretion and subject to its pleasure direct the Family Court Judge to expedite of the divorce matter.

f. That the wife Smt. Pooja Devi undertakes to withdraw proceeding for maintenance initiated by her u/s 125 Cr.P.C. against her husband, said to be pending before the concerned Magistrate at Mirzapur, unconditionally within 15 days from date.

g. That the husband Atra Ram Prajapati undertakes to unconditionally withdraw a petition for restitution of conjugal right filed by him u/s 9 Hindu Marriage Act before the Judge, Family Court, Mirzapur within 15 days from date, which the wife undertakes not to oppose for costs.

h. That both parties agree that the proceeding of Criminal Case No. 4485 of 2010 u/s 147, 323, 504, 506, 498A IPC and 3/4 D.P. Act, P.S. Kotwali Katra, Mirzapur, pending in the Court of the learned CJM, Mirzapur may in the discretion and subject to pleasure of the Hon"ble Court be quashed.

i. That both parties hereby covenant that they will not institute or prosecute any fresh or further legal proceeding against one another or their family members of

any nature, either civil or criminal

5. Learned counsel for respondent No. 2 admits that respondent No. 2 has received a sum of Rs. 1 lac from her husband as provided in para 5 (b) of the settlement-agreement and she has no objection if the proceedings pending before the Magistrate are quashed.

6. Though the revisionist has challenged the summoning order by means of criminal revision, since it is a matrimonial dispute and parties have come to terms and, therefore, this Court can also exercise power u/s 482 Cr.P.C. and can quash the proceedings on the ground of compromise.

7. The revisionist No. 1 and opposite party No. 2 have also filed a petition for divorce by mutual consent u/s 13(b) of the Hindu Marriage Act before the Principal Judge, Family Court, Mirzapur and parties have decided not to withdraw their consent.

8. The Apex Court in the case of Madan Mohan Abbot Vs. State of Punjab, , emphasized in para No. 6 as follows:

6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

9. The present dispute between the parties is of purely personal nature and is a matrimonial dispute, which has been mutually and amicably settled by the parties with the intervention of Mediation and Reconciliation Centre of this Court. After compromise between the parties, it would be futile to permit criminal case pending against the applicants to continue any further. As parties have come to terms, it shall be sheer waste of time of the Court, if the criminal proceeding pending against the revisionist is permitted to reach its logical end without any hope for a result in favour of the prosecution. In these circumstances the revision deserves to be allowed.

The revision is allowed. The impugned summoning order dated 14.1.2011 is quashed.