
(2012) 11 GAU CK 0058
In the Gauhati High Court
Case No : Criminal Petition No. 501 of 2012

Badana Begum (Musstt.) and Others	APPELLANT
Vs	
State of Assam	RESPONDENT

Date of Decision : 08-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 307, 34, 496, 498A

Citation : (2013) 1 GLT 692

Hon'ble Judges : C.R. Sharma, J

Bench : Single Bench

Advocate : Alhajj Inam Uddin and Mrs. R. Momtaz, for the Appellant;

Final Decision : Allowed

Judgement

C.R. Sarma, J.—By this joint application, filed u/s 482 read with Section 320 Cr.P.C. the informant (petitioner No. 1) and the accused persons, petitioner No. 2 (husband of the informant), petitioner No. 3 (brother-in-law of the informant) and petitioner No. 4 (sister-in-law of the informant) have prayed for quashing the proceeding of G.R. Case No. 979/2010 (Hojai P.S. Case No. 241/2010) u/s 498(A) IPC, pending in the Court of the learned Sub-Divisional Judicial Magistrate, Hojai, Sankardev Nagar, in the District of Nagaon, Assam. The learned counsel for the petitioners has submitted that the informant and the accused persons have amicably settled the matter and that the informant and her husband i.e. petitioner Nos. 1 and 2 are peacefully living together, as husband and wife. The said wife-petitioner No. 1 initiated a proceeding u/s 498(A) IPC against her husband (petitioner No. 2), her brother-in-law (petitioner No. 3) and her sister-in-law (petitioner No. 4). It is submitted that the parties have amicably settled the matter and that there is no dispute among them. The learned counsel for the petitioners has submitted that, as the petitioners have been peacefully living together, continuance of this proceeding will adversely affect the family life of the petitioners and as such the same is liable to be

quashed. In support of his contention, the learned counsel for the petitioners has relied upon the cases of *Rajiv Saxena and Others Vs. State (NCT of Delhi) and Another*, and *Arun Ch. Bora Vs. State of Assam*, reported in 2001 (1) GUI 275 (Crl. Revision Petition No. 427/1997, decided on January, 2, 2001).

2. In the case of *Rajiv Saxena and others (Supra)*, the Supreme Court, in a case under Sections 498(A)/496 read with Section 34 IPC allowed the prayer for quashing of the proceedings on the ground that the parties have mutually settled the matter. In the case of *Arun Ch. Bora (Supra)*, a learned single Judge of this Court, referring to the case of AIR 1988 2111 (SC) , observed as follows:

(12). Now, the question is whether the offence u/s 498(A) can be compounded under the provisions of Section 320 Cr.P.C. The learned counsel, appearing for the petitioner submits that Section 498(A) IPC can be allowed to be compounded though it is not a compoundable offence. Supporting his argument, Mr. Agarwal, learned counsel for the petitioner has placed reliance on various decision of the Apex Court as well as this Court.

(13). In AIR 1988 2111 (SC) , the Apex Court held that in a special case the offence which is not compoundable under the law can be permitted to be compromised. Relevant paragraphs of the said judgment is quoted as under: "2). The accused were acquitted by the trial court, but they were convicted by the High court for the offence u/s 307 IPC. This offence is not compoundable under law. The parties, however, want to treat it a special case, in view of the peculiar circumstances of the case, It is said and indeed not disputed that one of the accused is a lawyer practicing in the lower Court. There is a counter case arising out of the same transaction. It is said that the case has already been compromised. The decision of this Court in *Suresh Babu -Vs.- The State of Andhra Pradesh*, (1987) 2 JT-361 has been also in support of the plea for permission to compound the offence. 3) We gave our anxious consideration to the and also the plea put forward for sitting permission to compound the offence. After examining the nature of the case and the circumstances under which the offence was committed, it may be proper that the trial Court shall permit them to compound the offence."

(14). The ratio of *Mahe Chand's* case (supra) was accepted in *Smt. Saraswati Sutradhar and Others Vs. State of Tripura*, in a decision of this Court. This case relates to Section 498-A IPC. It was held in the said case that the prayer for composition can be accepted in an offence u/s 498(A) IPC. Having regard to the above mentioned judicial decisions, and submission of the learned counsel of the parties, I am of the view that the ratio of those decisions is also applicable to the case in hand.

In the case at hand, it appears that though the offence u/s 498(A) IPC is not compoundable, the parties, including the husband and the wife i.e. the petitioner Nos. 1 and 2 have amicably settled their dispute and they have been enjoying a peaceful family life. Therefore, continuance of the said proceeding will not yield

any fruitful result, rather it may adversely affect the family life of the petitioners. Therefore, ends of justice demands closure of the case aforementioned.

In view of the above decisions and the principles laid down thereon and considering the entire aspect of the matter, I find it to be fit case to allow the prayer for quashing the proceeding. Accordingly, the proceeding of G.R. Case No. 979/2010 (Hojai P.S. Case No. 241/2010) u/s 498(A) IPC, pending in the Court of the learned Sub-Divisional Judicial Magistrate, Hojai, Sankardev Nagar is quashed.

The criminal petition is allowed.