
(2012) 04 JH CK 0177

In the Jharkhand High Court

Case No : Criminal Miscellaneous No. 9073 of 2000

Bina Devi and Others

APPELLANT

Vs

The State of Jharkhand and Smt. Maya Devi Kheria

RESPONDENT

Date of Decision : 24-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2012) 3 JLJR 559

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : A.K. Das, for the Appellant; Tapas Roy, Assistant Public Prosecutor for the State, M/s. S.L. Agarwal and Dev Kant Rai, for the Respondent

Final Decision : Allowed

Judgement

H.C. Mishra

1. Heard learned counsel for the petitioners and learned counsel for the State as also learned counsel for private opposite party. The petitioners filed this application for quashing the entire criminal proceeding in connection with Sindri (Gosala) P.S. Case No. 56 of 2000 corresponding to G.R. No. 1836 of 2000 for the offence u/s 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, which was instituted on the basis of the F.I.R. lodged by O.P. No. 2, Smt. Maya Devi Kheria, who is the wife of the petitioner, Suresh Kumar Kheria.

2. It appears that after investigation, charge sheet was filed in the case and by order dated 29.09.2000, cognizance was taken against the petitioners for the offence u/s 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act and the case was transferred to the court of learned S.D.J.M., Dhanbad, which order is also challenged in the present case.

3. Without entering into the merits of the case it would be appropriate to

mention that there were several matrimonial disputes between the parties, one of them being a maintenance case, in which the petitioner, Suresh Kumar Kheria was directed to pay the maintenance to his wife at the rate of Rs. 1500/- per month besides a sum of Rs. 2,000/- as litigation cost. The said order passed by the Principal Judge, Family Court, Dhanbad, was challenged by the petitioner in W.P.(C) No. 4648 of 2001, in which there was a compromise between the parties, and according to the terms of the compromise, a lump sum amount was paid to the O.P. No. 2, Smt. Maya Devi Kheria. In terms of the compromise between the parties, said W.P.(C) No. 4648 of 2001 was disposed of by order dated 10.04.2003 by this Court, in which this Court also took note of the other disputes pending between the parties, including the present Cr. Misc. No. 9073 of 2000, and this Court has observed that the parties have agreed to compromise all the cases between them including the present criminal case.

4. Learned counsel for the petitioners has submitted that in view of the compromise between the parties, the entire criminal proceeding is fit to be quashed in view of the decision of the Supreme Court of India in the case of B.S. Joshi & Ors. Vs. State of Haryana & Anr. reported in 2003 (2) East Cr C 220 (SC).

5. Learned counsel for the O.P. No. 2, on the other hand, has very fairly admitted that there was compromise between the parties, In which, it was decided to compromise all the cases including the present criminal case and he has no objection in quashing the criminal proceeding against the petitioners.

6. In B.S. Joshi's case (supra), the Hon'ble Supreme Court of India has held in a similar matter u/s 498A of the Indian Penal Code, wherein also there was a compromise between the parties, that the High Court can exercise of its inherent powers u/s 482 of the Cr.P.C. for quashing the criminal proceedings or F.I.R. or complaint and Section 320 of the Cr.P.C. shall not limit or affect the powers of the High Court.

7. In view of the law laid down by the Supreme Court of India in B.S. Joshi's case (supra), and also in view of the fact that the case has already been compromised between the parties as is apparent from the order dated 10.04.2003 passed by this Court in W.P.(C) No. 4648 of 2001, a copy whereof is brought on record as Annexure 7, I find that it is a fit case in which this Court should exercise the inherent power u/s 482 of the Cr.P.C. in the interest of both the parties for quashing the criminal proceeding against the petitioners. Accordingly, the entire criminal proceeding against the petitioners in connection with Sindri (Gosala) P.S. Case No. 56 of 2000 corresponding to G.R. No. 1836 of 2000 and impugned order dated 29.09.2000 passed by learned S.D.J.M., Dhanbad, therein, are hereby quashed and this application; is accordingly, allowed.