

(2011) 06 GUJ CK 0048
In the Gujarat High Court
Case No : Criminal Application No. 468 of 2011

Darshan Vinodray Parikh and Others

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 24-06-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 114, 498A

Citation : (2012) 3 DMC 622

Hon'ble Judges : M.B. Shah, J

Bench : Single Bench

Advocate : Tapan J. Trivedi, for the Appellant; L.R. Poojari, Addl. P.P. for the Respondent No. 1 and Notice Served for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

M.D. Shah, J.—Rule.

2. The present application u/s 482 of the Code of Criminal Procedure has been filed for quashing of complaint/FIR registered as CR.No. I-334 of 2009 before Ghatlodia Police Station, Ahmedabad for the offences punishable under Sections 498(A), 114 of Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act.

3. The learned Advocates for the applicants submitted that the matter is settled between the parties and therefore, complaint may be quashed. It is also submitted that as per settlement terms, applicant No. 1 paid Rs. 10 lacs towards permanent alimony to respondent No. 2. Decree of divorce has also been passed by the Competent Court u/s 13B of the Hindu Marriage Act.

4. Respondent No. 2 - complainant is personally present in the Court. She has stated that she has received Rs. 10 lacs towards permanent alimony and it is

also submitted that applicant No. 1 and respondent No. 2 have filed divorce petition before the Family Court, Rajkot and Family Court, Rajkot has also passed decree of divorce. Respective parties have jointly submitted that as the matter is settled between the parties, the complaint may be quashed.

5. It is clear that the parties have settled the matter by arriving at a compromise and a consent terms settlement is also placed on record. Reliance is placed on another decision of the Apex Court reported in B.S. Joshi and Others Vs. State of Haryana and Another, in the case of B.S. Joshi v. State of Haryana, wherein complaint for the offence u/s 498-A has been quashed by using the inherent power of the Court u/s 482 of Cr.P.C. It has been held by the Apex Court in paras 14 and 15 of the said judgment as under:

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or F.I.R. or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code.

6. Applying the above ratio to the facts of the present case, since the matter has been settled between the parties, I am of the opinion that no useful purpose would be served by permitting the criminal proceedings pending against the petitioners to continue as it would be abuse of process of the Court. Hence, the complaint in question is required to be quashed.

7. In the result, present application is allowed.