
(2001) 05 RAJ CK 0016

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 184 of 2001

Diwan Singh and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 16-05-2001

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2001) 05 RAJ CK 0016

Hon'ble Judges : Shashi Kant Sharma, J

Bench : Single Bench

Advocate : Biri Singh, for the Appellant; Madhav Mitra, Public Prosecutor for the State and Mr. Ganesh Meena, for the Complainant, for the Respondent

Final Decision : Allowed

Judgement

Shashi Kant Sharma, J.—This Criminal Revision filed by petitioners Diwan Singh, Pappu, Girraj Singh and Smt.Harpyari, is directed against the order dated 25.1.2001 passed by learned Additional Chief Judicial Magistrate, Bayana, whereby learned Magistrate has taken cognizance against these petitioners for offence under sections 498A and 406 IPC and summoned them through bailable warrants.

2. Notices were issued to the non-petitioners, and record of the lower Court was called for. Heard learned counsel for the parties.

3. It is contended on behalf of petitioners that in the matter, Petitioner Diwan Singh is husband of Smt.Nirmala Devi alias Lajja, complainant Non-Petitioner No.2 and due to some misunderstanding complainant non-petitioner has filed a complaint in the Court, which was sent to Police for investigation u/s 156(3) of the Criminal Procedure Code. During the course of investigation the accused petitioners brought the complainant at their residence and she has started living alongwith her minor daughter with her husband peacefully. The complainant wife has filed an affidavit stating that at the time of delivery, she got a paralytic

attack and as a result of which half portion of her body has been paralysed. She also stated that she was not subjected to any cruelty by her husband and by her in-laws and is living peacefully with her in-laws. After investigation Police filed final report, when she was at the house of her parents, her statement alongwith witnesses was recorded u/s 200 and 202 Cr.P.C. and Court took cognizance against these petitioners for offence u/s 498A and 406 IPC. Hence this revision.

4. It is contended that even before this Court, Non-Petitioner No.2 appeared with her Advocate and filed an affidavit and informed the Court that she is living peacefully with her husband and does not want to proceed further with any criminal case. It is argued that now Non-Petitioner No.2 wife is peacefully living with these accused persons and accused petitioner is husband of non-petitioner No.2. Under these circumstances, the order of taking cognizance by the lower Court may be quashed. In support of his contentions, counsel for the petitioners has placed reliance on Rambabu Vs State of Rajasthan and others reported in 1991(2) RCC 958, and states that when the matter has been compromised and both of them are living peacefully, the cognizance taken by lower court may be quashed.

5. Counsel for the Non-Petitioner No.2 is also agreed with the contentions raised on behalf of petitioners and states that now non-petitioner No.2 does not want to proceed with any criminal case against the accused petitioners and she wants that cognizance taken by lower Court should be quashed.

6. I have also heard learned Public Prosecutor.

7. It is clear from the record that N.P.No.2 wife, appeared in the Court on 13.4.2001. She was identified by her advocate and she expressed that she is living with her husband and there is no dispute between them. Her affidavit is also on record.

8. Looking to the facts and circumstances of the case and also the decision passed in Ram Babu's case (supra), I am of the view that in the matter the revision should be accepted and the order of cognizance passed by lower court should be quashed.

9. In the result, the revision is allowed. The order of cognizance taken by learned Magistrate is quashed and set-aside.