

(2008) 05 SC CK 0071

In the Supreme Court Of India

Case No : Criminal Appeal No. 844 of 2008 (Arising out of SLP (Criminal) No. 4032 of 2006)

Dr. Arvind Barsaul etc.

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 08-05-2008

Acts Referred:

Constitution of India, 1950 — Article 142
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 294, 34, 498A, 506

Citation : (2008) 3 ACR 3247 : (2009) CriLJ 331 : (2008) 2 DMC 175 : (2008) 40 OCR 646 : (2008) 7 SCALE 358 : (2008) 5 SCC 794

Hon'ble Judges : Tarun Chatterjee, J; Dalveer Bhandari, J

Bench : Division Bench

Advocate : Sushil Kumar Jain, Puneet Jain, Christi Jain, Piyush Jain, H.D. Thanvi and Pratibha Jain, for the Appellant; Govind Goel, B.S. Banthia and Ram Naresh Yadav, for the Respondent

Final Decision : Partly Allowed

Judgement

Dalveer Bhandari, J.—Leave granted.

2. This appeal is directed against the judgment and order of the High Court of Madhya Pradesh, Bench at Gwalior in Criminal Misc. Case Nos. 5070, 5071 and 5072 of 2005.

3. Appellant, Dr. Arvind Barsaul, and respondent No. 2, Smt. Sadhna Madnawat, are both medical doctors. They were married on 08.02.1992. Respondent No. 2 did not want to stay with the appellant husband and she wanted him to leave his parents and stay at Gwalior with her parents. The appellant husband did not agree to this condition. According to the appellant husband, thereafter, she started levelling allegations of impotency against him and started behaving cruelly with him, his parents and relatives. Respondent No. 2 ultimately deserted the appellant husband and went back to Gwalior.

4. On 18.10.1994, the appellant husband sent a legal notice to respondent No. 2 for divorce and thereafter filed a petition for divorce before the Civil Judge, Mathura being case No. 581 of 1994. On 07.11.1994, respondent No. 2 as a counter-blast filed a criminal complaint at Mahila Thana, Padaw against the appellant husband, appellant Smt. Pushplata Barsaul (mother-in-law) and appellant Shri Chitranjan Singh Barsaul (father-in-law).

5. On 3.11.1996, a decree of divorce was granted by mutual consent of the parties. Respondent No. 2 filed Criminal Case No. 913 of 1995 against appellant husband and Rajendra Singh (appellant's sister's husband) under sections 294/506/34 IPC and another Criminal Case No. 1215 of 1998 against the appellant husband along with Gokul Singh and Vinod Singh. In both the cases, the trial court vide its judgments dated 17.4.2000 and 30.3.1999 respectively acquitted the appellants and other accused.

6. The Judicial Magistrate First Class, Gwalior vide his judgment and order dated 7.2.2005 convicted the appellants u/s 498A IPC and sentenced them to imprisonment of 18 months and a fine of Rs. 100/- each and in default of payment of fine to undergo further imprisonment of 10 days.

7. The appellant being aggrieved by the aforesaid judgment filed an appeal before the Second Additional District & Sessions Judge, Gwalior. During the pendency of the appeal, the parties sorted out their differences and filed three separate petitions for recording the compromise in the criminal proceedings. The First Appellate Court rejected the compromise petition stating that the offence u/s 498A IPC is not liable of compromise.

8. The appellants being aggrieved from the said judgment of the First Appellate Court filed three separate petitions u/s 482 Cr.P.C. before the High Court for quashing the proceedings pending in the court of Second Additional District & Sessions Judge, Gwalior. The High Court also declined to interfere in the matter. The appellants being aggrieved by the impugned judgment of the High Court have preferred this appeal.

9. Learned Counsel for the parties submitted that the parties have settled their differences. It was submitted on behalf of the complainant Smt. Sadhna Madnawat that she is not interested in prosecuting the appellants. It may be pertinent to mention that the parties hail from cultured and educated families. It was also submitted that the appellant's parents are suffering from multiple ailments because of advanced age. The appellant's father is a retired Professor and Dean, Veterinary College, Mathura and he had undergone transplant of his kidney and the appellant's mother is suffering from multiple ailments and is virtually bed-ridden.

10. We have heard learned Counsel for the parties at length. The parties have compromised and the complainant Smt. Sadhna Madnawat categorically submitted that she does not want to prosecute the appellants. Even otherwise also, in the peculiar facts and circumstances of the case and in the interest of

justice, in our opinion, continuation of criminal proceedings would be an abuse of the process of law. We, in exercise of our power under Article 142 of the Constitution, deem it proper to quash the criminal proceedings pending against the appellants emanating from the FIR lodged u/s 498A IPC. The appeal is accordingly disposed of.