
(2008) 09 UK CK 0013

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 484 of 2008

Dr. Ashish Verma and Others

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 17-09-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 498A, 498A, 504

Citation : (2009) NCC 366

Hon'ble Judges : J.C.S.Rawat, J

Bench : Single Bench

Advocate : Lokendra Dobhal, for the Appellant; Nandan Arya, AGA, for the Respondent

Final Decision : Allowed

Judgement

J.C.S. Rawat, J.—Heard Mr. Lokendra Dobhal, Advocate for the applicants and Mr. Nandan Arya, AGA, for the State.

2. None for the respondent No. 2-Dr.Tanu, despite the notice was served personally.

3. This is a petition u/s 482 Cr.P.C. with the prayer to quash the charge-sheet in case crime No. 221/2007 under sections 498A, 504, 406 IPC and 3/4 Dowry Prohibition Act and to quash the proceedings of criminal case No. 2133/2007 State v. Ashish Verma and Others pending in the Court of Chief Judicial Magistrate, Dehradun.

4. It has been alleged in the petition that the marriage was solemnized between the applicant No. 1 -Dr. Ashish Verma and respondent No. 2-Dr.Tanu on 14.04.2004, but after the marriage the relation between them become strained. The respondent No. 2 lodged an FIR in the police station Kotwali, Dehradun against the applicants. On the basis of the said FIR a case crime No. 221/2007 under sections 498A, 504, 406 IPC & 3/4 Dowry Prohibition Act has been

registered against the applicants. After completing the investigation, the I.O. submitted the charge-sheet before the Magistrate concerned. Learned Magistrate proceeded against the present applicants and a criminal case No. 2133/ 2007 was registered in the Court of Chief Judicial Magistrate, Dehradun under sections 498A, 504 & 406 IPC and 3/4 D.P. Act. During the pendency of the aforesaid criminal case, a joint divorce petition was filed before the Additional District Judge, Delhi u/s 13B of the Hindu Marriage Act, 1955. In the said divorce petition a compromise was arrived at between the parties in which it was stated that all the disputes between them have been amicably settled. It was settled that both husband and wife were willing for a consent divorce and that the wife had received all her "stridhan" and maintenance in lump sum. Both applicant No. 1 and respondent No. 2 also declared in the said compromise deed that there would be no claim or counter claim against each other. It is also settled in the said compromise deed that the parties to the proceedings would withdraw all criminal and civil complaints filed against each other which includes the criminal complaint filed by the wife which is the subject-matter of this petition. The aforesaid joint petition is also annexed with this petition.

5. The notice was served personally to the respondent No. 2, but she did not appear before this Court and did not file any counter affidavit.

6. Learned Counsel for the applicants submitted that though the aforesaid compromise deed was signed by Dr. Ashish Verma (husband) and Dr. Tanu Verma (wife), but now she is not taking any step for quashing the criminal proceedings. Learned Counsel for the applicants relied upon the judgment of the Hon'ble Apex Court in Ruchi Agarwal v. Amit Kumar Agarwal and Others, 2005 (1) CCC 611 (S.C.) : 2005 (25) AIC 14 SC, in which it has been held as follows:-

5. In the compromise petition, referred to hereinabove, both the parties had agreed to withdraw all the civil and criminal cases filed by each against the other. It is pursuant to this compromise, the above divorce as sought for by the appellant was granted by the husband and pursuant to the said compromise deed the appellant also withdrew Criminal Case No. 63 of 2002 on the file of the Family Court, Nainital which was a complaint filed u/s 125 of the Criminal Procedure Code for maintenance. It is on the basis of the submission made on behalf of the appellant and on the basis of the terms of the compromise, the said case came to be dismissed. However, so far as the complaint under sections 498A, 323 and 506 IPC and under sections 3 and 4 of the Dowry Prohibition Act is concerned, which is the subject-matter of this appeal, the appellant did not take any steps to withdraw the same. It is in those circumstances, a quashing petition was filed before the High Court which came to be partially allowed on the ground of the territorial jurisdiction, against the said order the appellant has preferred this appeal.

6. From the above-narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received stridhan and. maintenance in lump sum and that she will not be entitled to maintenance

of any kind in future. She also undertook to withdraw all proceedings, civil and criminal, filed and initiated by her against the respondents within one month of the compromise deed, which included the complaint under sections 498A, 323 and 506 IPC and under sections 3 and 4 of the Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent's husband agreed to withdraw his petition filed u/s 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

9. In view of the abovesaid subsequent events and the conduct of the appellant, it would be an abuse of the process of the Court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash the proceedings arising from criminal case Cr. No. 224 of 2003 registered in Police Station Bilaspur (District Rampur) filed under sections 498A, 323 and 506 IPC and under sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.

7. The parties have entered into an amicable settlement by way of the aforesaid compromise deed and no useful purpose will be served to prolong the pendency of the above mentioned case. Considering the above facts and the principles laid down by the Apex Court, the charge-sheet mentioned above and the proceedings in criminal case No. 2133/2007 are hereby quashed; The petition is allowed accordingly.