

(2004) 12 BOM CK 0042

In the Bombay High Court

Case No : Criminal Application No. 2442 of 2004

Gambhir Rajaram Chaudhari and Others

APPELLANT

Vs

Nirmala Chaudhari and Another

RESPONDENT

Date of Decision : 23-12-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 320, 34, 482, 498A

Citation : (2005) 2 MhLj 36

Hon'ble Judges : Naresh H. Patil, J

Bench : Single Bench

Advocate : Joydeep Chatterji, for the Appellant; Vijay Sharma and C.K. Shinde, Additional Public Prosecutor, for the Respondent

Judgement

Naresh H. Patil, J.—By this application the applicants seek a relief of quashing and setting aside the judgment and order passed by the Judicial Magistrate, First Class, Muktainagar in Regular Criminal Case No. 51 of 1998 by acquitting them of an offence punishable u/s 498-A read with Section 34 of the Indian Penal Code.

2. The applicants were convicted and sentenced for an offence punishable u/s 498-A read with Section 34 of the Indian Penal Code. The applicants No. 1 to 3 are the father-in-law, mother-in-law and brother-in-law respectively of the respondent No. 1, who married to Bhaskar, son of the applicants No. 1 and 2.

3. First Information Report came to be lodged on 10-7-1998 at Muktainagar Police Station against the applicants in which it was alleged that the marriage of Nirmala was solemnised in the year 1987 and she started residing jointly with her husband and the applicants at village Karki. After about 3 years of marriage, the applicants started ill-treating her and, therefore, she left her matrimonial house on 26-6-1998 and started residing with her parents.

4. It is submitted across the Bar that, against the order of conviction and sentence passed by the Judicial Magistrate, the applicants preferred an appeal before the Sessions Court which is pending. In the meanwhile, certain

developments took place and the respondent No. 1 returned to the house of the applicants in the month of March, 2003 and started residing separately with husband in a house which is adjacent to the house of the applicants. A statement is made before the Court on oath by the applicants and respondent No. 1 that they have resolved their differences and sorted out the misunderstandings now. There is no ill-feeling or bitterness between them. The parties want to continue the cordial relations between them and, therefore, they do not want to pursue the criminal case any further. The respondent No. 1, it is contended, does not desire that the applicants should undergo any sentence or imprisonment and now she does not want to disturb the cordial relations which are now subsisting between them.

5. The learned counsel for the applicants places reliance on a reported judgment of the Apex Court in the matter of B.S. Joshi and Others Vs. State of Haryana and Another, to contend that in the identical facts situation, the Apex Court had quashed the FIR lodged against the accused. He also places reliance on the judgments of the Apex Court in (1) S.A.L. Narayan Row and Another Vs. Ishwarlal Bhagwandas and Another, and (2) Babu Lal Vs. Hazari Lal Kishori Lal and Others, to describe as to what amounts to "proceedings" in a given case.

6. The parties were present before Court on 1-11-2004 and on Court questions the respondent No. 1 stated that she is staying with her husband since last one year and she wants to forget the past. The applicants also stated that they too equally want to forget the past and establish good relations with respondent No. 1. The presence of the parties in Court and the submissions of the learned counsel is recorded in my order passed on the said date.

7. The Apex Court in the case of B. S. Joshi (cited supra) observed :

"14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A 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 FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code."

8. The learned counsel for the applicants, therefore, submitted that this Court is empowered even to quash criminal proceedings and the judgment and order of conviction and sentence delivered by the Judicial Magistrate, First Class amounts to "criminal proceedings".

9. The learned A.P.P. states that this Court is empowered to pass order keeping in view the spirit and object behind the judgment delivered by the Apex Court cited supra.

10. Considering the submissions advanced by the learned counsel for the applicants and the respondents, the facts of the case, the stand taken by the parties, who were present before the Court, I deem it appropriate to quash the criminal proceedings which were initiated against the applicants so that the parties would continue to have cordial relations which they have established now. Such a view would also meet the ends of justice.

11. In the result, the judgment and order dated 31-12-2002 passed by the Judicial Magistrate, First Class, Muktainagar in Regular Criminal Case No. 51 of 1998 convicting and sentencing the applicants for an offence punishable u/s 498-A read with Section 34 of the Indian Penal Code is quashed and set aside. Rule is made absolute on the above terms.