
(2014) 10 MP CK 0108

In the Madhya Pradesh High Court

Case No : Misc. Criminal Case No. 668 of 2014

Gaya Prasad Trivedi and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 09-10-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13(b)
Penal Code, 1860 (IPC) — Section 323, 34, 498A

Citation : (2015) 2 Crimes 594 : (2015) 1 DMC 263

Hon'ble Judges : Subhash Kakade, J

Bench : Single Bench

Advocate : Parth Tiwari, Advocates for the Appellant

Judgement

Subhash Kakade, J.—This petition under Section 482, Cr.P.C. has been filed by the applicants for quashing the proceedings of RT No. 8185/2013 pending before Additional Chief Judicial Magistrate, Bhopal. The marriage between applicant No. 3 and respondent No. 2 was solemnized on 23.4.2012 as per Hindu rites and rituals at Bhopal. Applicant No. 1 is father-in-law and applicant No. 2 is mother-in-law, applicant No. 3 is brother-in-law (Jeth) and applicant No. 5 is sister-in-law (Nanad) of the respondent No. 2.

2. On the basis of complaint lodged by the respondent No. 2 a criminal case for the offence punishable under Sections 498A and 323 of IPC and Sections 3/4 of Dowry Prohibition Act has been registered against applicants and after conclusion of the investigation the applicants has been charge-sheeted. Learned JMFC, Bhopal taken cognizance against the applicants in RT No. 8185/2013 and trial is in progress.

3. As per the order of this Court willingness and consent of the respondent No. 2 wife has been recorded before Registrar (J-I) on 29.9.2014. The respondent No. 2 was present in person and identified by her Counsel Mr. S.K. Gangrade. The

respondent No. 2 submitted that she is ready and willing to resolve her disputes voluntarily and by free consent with the applicants. She has expressed in clear unequivocal terms that there is peace between them and she entered into a compromise to settle all the disputes. In the light of the aforesaid factual position it is apparent that the respondent No. 2 has entered into compromise voluntarily and without any fear, undue influence or pressure with the applicants. It goes to show that now she will not narrate any fact against the applicants hence possibility of conviction is extreme remote and almost bleak.

4. Vide allowed I.A. No. 9963/2014, an application for taking documents on record, the applicants have placed on record copies of orders both dated 29.5.2014 passed in M.J.C. No. 45/2013 and 46/2013, by the Judicial Magistrate First Class, Goharganj, District Raisen where on the basis of compromise entered between wife respondent No. 2 Smt. Pooja Trivedi and husband applicant No. 3 Antriksh Trivedi. Both cases were disposed of on the basis of compromise. An agreement dated 15.5.2014 is also on record in which this couple agreed to resolve their dispute through compromise in various Courts including petition filed under Section 13(b) of Hindu Marriage Act pending in the Court of 14th Additional District Judge, Bhopal.

5. The question which now remains to be answered is whether since the offence under Sections 498A/34 of IPC is not compoundable, the proceedings of complaint case could be quashed?

6. It is pertinent to mention here that dispute between the parties is of private nature and having no adverse effect to others.

7. The Apex Court in the case of Gian Singh Vs. State of Punjab and Another, , considered the relevant provisions of the Code and concluded as under:

"The position that emerges from the above discussion can be summarized thus:

the power of the High Court in quashing a criminal proceeding or F.I.R. or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal Court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz: (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrong-doer and whether to secure the ends of justice, it is appropriate that

criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

8. Reference in this regard may be made to the decisions of Apex Court in Ram Lal and Another Vs. State of Jammu and Kashmir, , Ishwar Singh Vs. State of Madhya Pradesh, and recently ruled by the Apex Court in the case of Shiji @ Pappu and Others Vs. Radhika and Another, .

9. Since the respondent No. 2 now did not want to proceed against the applicants in any manner and has buried the hatchet by amicably settling her disputes with the applicants. In the totality of the circumstances, the settlement arrived at between the parties in form of compromise agreement before other Court and mutual divorce is a sensible step that will benefit the parties, give quietus to the controversy and rehabilitate and normalize the relationship between them. In light of willingness shown by the respondent No. 2 on dated 29.9.2014 for offences related to matrimonial disputes chances of recording of conviction against the petitioners are totally bleak and the entire exercise of trial is destined to be exercise of futility. The continuation of criminal proceedings would tantamount to abuse of process of law.

10. In the above facts and circumstances of the case the answer of question giving in affirmative and resultantly this petition under Section 482 of Cr.P.C. is allowed and Criminal Case RT No. 8185/2013 pending in the Court of learned Judicial Magistrate, First Class, Bhopal is hereby quashed. The applicants No. 1 Gaya Prasad Trivedi, No. 2 Smt. Saroj Trivedi, No. 3 Antriksh Trivedi, No. 4 Prateek Trivedi and No. 5 Smt. Shivangi Trivedi are acquitted of the offences punishable under Sections 498A and 323 of IPC and Sections 3/4 of Dowry Prohibition Act Their bail bonds and surety bonds stand discharged. The petition is allowed and disposed of accordingly.

Let a copy of this order be sent to the Court below and for necessary compliance.