
(2009) 05 AHC CK 0877
In the Allahabad High Court
Case No : Criminal M. A. No. 9385 of 2009

Hafiz Iqbal Ahmad and Others	Vs	APPELLANT
State of U.P. and Another		RESPONDENT

Date of Decision : 27-05-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2009) 3 ACR 2631

Hon'ble Judges : Surendra Singh, J

Bench : Single Bench

Advocate : Mohd. Farooq, for the Appellant; C.B. Mishra and A.G.A., for the Respondent

Judgement

Surendra Singh, J.—By the present application u/s 482, Cr. P.C. the applicants have invoked the inherent jurisdiction of this Court praying for direction to the learned Additional Chief Judicial Magistrate, Kaushambi to conclude the proceedings of Criminal Case No. 439 of 2005, State v. Hafiz Iqbal Ahmad and others Criminal Case No. 439 of 2005 under Sections 323, 498A, 504, 506, I.P.C. and Section 3/4 of Dowry Prohibition Act of P.S. Karari, District Kaushambi arising out of Case Crime No. C-4 of 2005 in terms of compromise within stipulated period.

2. The allegations in brief were that opposite party No. 2 Smt. Nushrat Khursheed daughter of Salahuddin was married with applicant No. 1 Hafiz Iqbal Ahmad according to the Muslim rites on 29.5.2000, she was subjected to cruelty and harassment for want of a motorcycle and Rs. 50,000 for business purposes by the applicant and his family members after marriage. It is alleged that on the date and time of the incident she was beaten and was turned out from their house on account of non-fulfilment of the alleged demand. In order to settle the dispute, a Panchayat was convened but the attempt of compromise could not be materialized. Thereafter on the basis of said allegations the F.I.R. was registered

in pursuance of the order passed by the learned Magistrate in exercise of power conferred u/s 156(3), Cr. P.C.

3. The police after usual investigation submitted a charge-sheet against the applicants under the aforesaid sections in the concerned court of Magistrate. The concerned Magistrate took the cognizance of the offence against all the applicants who are husband, father-in-law, nanad and dewar of the deceased respectively. After some gap of time the informant as well as the charge-sheeted accused persons settling their differences, came to terms and entered into a compromise with the help of some respectable persons out of Court and now the dispute has been set at rest between the parties as both of them have entered into compromise. An application was filed before the Civil Judge (S.D.), Kaushambi jointly by both applicant No. 1 and opposite party No. 2 on 26.10.2007 praying for deciding Case No. 439 of 2005 in terms of compromise. The said application is still pending for disposal.

4. I have heard Sri Mohd. Farooq, advocate on behalf of the applicants and Sri C. B. Mishra, advocate appearing for opposite party No. 2, who has filed counter-affidavit which is taken on record as well as the learned A.G.A. at a great length and perused the material placed on record.

5. Learned Counsel for the applicants urged that since it is a case of matrimonial dispute and the parties have come to a compromise, therefore, no useful purpose will be served to drag both the parties to the Court for the purposes of completing the formalities of the case. Therefore, it is in the interest of justice that a suitable direction be given to the Court concerned to decide/conclude the proceedings against the applicants in terms of compromise between the parties expeditiously without unreasonable delay. The opposite party has not disputed the factum of compromise in the affidavit filed on her behalf.

6. I find that the matter relates to a matrimonial dispute on account of petty matter and both of them have settled their dispute and entered into a compromise and they do not want to further proceed in the matter. In such eventuality, there would almost be no chance of conviction, therefore, it would not be proper to decline the exercise of power for quashing of the proceedings on the ground that the offence is not compoundable.

7. It has been held by the Apex Court in the case of B. S. Joshi and Ors. v. State of Haryana and others 2003 SCC 848: 2003 (2) ACR 1305 (SC), that the power of the High Court u/s 482, Cr. P.C. is not circumscribed by Section 320, Cr. P.C. It has been further held, in para 14 of the said judgment that--

There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498A 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 hypertechnical view would be counter productive and would act against the interest of woman

and against the object for which this provision was added. There is every likelihood that the 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 XX-A of the Indian Penal Code.

8. Sum and substance of the dictum of the Apex Court does not permit me to take different view except the view expressed by the Apex Court.

9. It becomes the duty of the Court to encourage the genuine settlements of matrimonial disputes. It will, therefore, be proper to truncate or snip the proceeding against the applicants at this stage itself. In these circumstances the ends of justice would be subserved if this application is allowed.

10. Resultantly, this application is allowed. The Court concerned is directed to dispose of the compromise application/decide the proceedings as expeditiously as possible without unreasonable delay in the light of the observations made above.