

(2015) 11 KAR CK 0334

In the Karnataka High Court

Case No : Criminal Petition Nos. 4527/2015 and 5454/2014

Harshawardan and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 18-11-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24
Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13, 13B
Penal Code, 1860 (IPC) — Section 323, 34, 341, 342, 354

Citation : (2015) 11 KAR CK 0334

Hon'ble Judges : Rathnakala, J.

Bench : Single Bench

Advocate : Ravindra B. Deshapande, Advocate, for the Appellant; Vijayakumar Majage, Addl. SPP, for the Respondent

Final Decision : Allowed

Judgement

Rathnakala, J.

IN CRL.P.4527/2015:

1. The petitioners herein are charge sheeted for the offence punishable under Sections 498A , 323 , 504 , 506 , 341 , 342 and 34 of IPC R/w Sections 3 and 4 of Dowry Prohibition Act, 1961, on the complaint of Respondent No. 2, who is none other than wife of the 1st petitioner herein.
2. Respondent No. 2 is present before the Court.
3. Sri. H.R. Showri, learned counsel files a vakalath for R2.
4. The petitioners have filed an application under Section 482 R/w 320 of Cr.P.C seeking permission to compound the case.
5. Respondent No. 2 has filed an affidavit which reads thus:

"I, Smt. Chaitra, D/o Ramachandra, aged about 26 years, R/o "Raga Renuka Krupa" Sharavathi Nagara, A Block, Main Road, Shimoga, today at Bangalore, do hereby solemnly affirm and state on oath as follows:

1. I am the second respondent in this petition and I am conversant with the facts of the case.

2. I further state that the present petition was filed by the petitioners seeking quashing the criminal proceedings in CC No. 1432/2014, (Crime No. 21/2014) on the file of JMFC II Court, Shimoga, for the offence punishable under Sections 498A , 323 , 504 , 506 , 341 , 342 and 34 of IPC read with Sections 3 and 4 of Dowry Prohibition Act, initiated at my complaint filed before the respondent No. 1 Police Station.

3. Since there was a matrimonial dispute between me and the petitioner No. 1, and several cases both of civil and criminal in nature were filed against each others family members and pending before the Courts in Bangalore and Shimoga.

4. I further state that, petitioner No. 1 had filed a petition for Restitution of Conjugal Rights before the Prl. Judge Family Court at Bangalore, in MC No. 2791/2014 against me.

5. I further state that I had filed a Civil Petition before this Hon"ble Court in CP No. 195/2014 u/s. 24 of the Civil Procedure Code, seeking transfer of the said case in MC No. 2791/2014 to the Family Court at Shimoga. The said case was referred for mediation before the Bangalore Mediation Centre and on 13.11.2015 a settlement agreement was entered into between me and the petitioner No. 1. In the said agreement, we have decided to resolve all the disputes pending among us and dissolve our marriage by filing a separate petition for divorce by mutual consent u/s. 13 of the Hindu Marriage Act. Further we agreed to withdraw cases filed against each other both of criminal and civil nature including the CC No. 1432/2014 pending on the file of JMFC II Shimoga, which is subject matter of this Criminal Petition.

6. I further state that the settlement agreement dated 13.11.2015 was accepted by this Hon"ble Court on 18.11.2015 (i.e. today) in CP No. 195/2014".

7. In the light of the settlement arrived at I would like to withdraw the complaint made by me against the petitioners herein CC No. 1432/2014 and state that I have no objection for quashing the criminal proceedings in CC No. 1432/2014 by allowing the present petition.

8. I state that I am swearing to this affidavit voluntarily and without any undue influence, or force etc of what so ever nature."

6. In the light of the judgment of the Hon"ble Apex Court in the case of Gian Singh Vs. State of Punjab and Another, , there is no impediment to quash the charge sheet since present criminal case is the culmination of the matrimonial dispute between the 1st petitioner and 2nd respondent.

7. The petition is allowed. The proceedings in CC No. 1432/2014, on the file of JMFC II Court, Shimoga, against the petitioners is quashed.

IN CRL.P. NO.5454/2014:

8. The petitioner herein is charge sheeted for the offence punishable under Sections 341 , 504 , 506 , 354 read with Section 34 of IPC, on the complaint of respondent No. 2 herein.

9. Respondent No. 2 is mother of son-in-law of the petitioner. A criminal case was registered against the petitioner No. 2 and family members, on the complaint of daughter of the petitioner herein in respect of the offence punishable under Sections 498A , 323 , 504 , 506 , 341 , 342 and 34 of IPC R/w Sections 3 and 4 of Dowry Prohibition Act, 1961.

10. Respondent No. 2 is present before the Court.

11. Sri. R.B. Deshpande learned counsel files a vakalath for Respondent No. 2.

12. The petitioner has filed an application under Section 482 R/w 320 of Cr.P.C seeking permission to compound the case.

13. Respondent No. 2 has filed an affidavit which reads thus:

"I, Smt. Narasamma, W/o Gangamuniyappa, aged about 53 years, R/o No. 10, 1st A Main Road, Kaveri layout, Vijayanagara, Bangalore-560040, do hereby solemnly affirm and state on oath as follows:

1. I am the second respondent in this petition and I am conversant with the facts of the case.

2. I further state that the present petition was filed by the petitioner seeking quashing the criminal proceedings in CC No. 18796/2014, (Crime No. 155/2014) on the file of VI ACMM Bangalore, for the offence punishable under Sections 341 , 504 , 506 , 354 read with Section 34 of IPC initiated at any complaint filed before the Respondent No. 1 Police Station.

3. I further state that the petitioner is father of my daughter-in-law and there due to the matrimonial dispute raised in the matrimonial life of my son Harshavardhana and his wife Smt. Chaitra, several cases were filed against each others family members in courts at Shimoga and Bangalore.

4. I further state that in the Civil Petition No. 195/2014 filed by my daughter in law seeking transfer of MC No. 2791/2014 filed by my son before the Family Court at Bangalore to the Family Court at Shimoga, this Hon"ble Court was pleased to refer the matter for mediation before the Bangalore Mediation Centre and on 13.11.2015 a settlement agreement was entered into between my son and Smt. Chaitra. In the said agreement we have decided to resolve all the disputes pending among us and in the said agreement it has been agreed to resolve all the disputes pending among us and dissolve the marriage of my son with Smt. Chaitra by filing a separate petition for divorce by mutual consent u/s.

13B of the Hindu Marriage Act. Further it is agreed to withdraw cases filed against family members of each other both of criminal and civil nature including the CC No. 18796/2014 pending on the file of VI ACMM Bangalore, which is subject matter of this criminal petition.

5. I further state that the settlement agreement dated 13.11.2015 was accepted by this Hon"ble Court on 18.11.2015 (i. e. today) in CP No. 195/2014.

6. In the light of the settlement arrived at I would like to withdraw the complaint made by me against the petitioner herein CC No. 18796/2014 and state that I have no objection for quashing the criminal proceedings in CC No. 18796/2014 by allowing the present petition.

7. I state that I am swearing to this affidavit voluntarily and withdraw any undue influence, or force etc of whatsoever nature."

14. Today, on report of settlement between the parties and also on the basis of the affidavit filed by Smt. Chaitra, the case against Respondent No. 2 and co-accused in Crl.P.4527/2015 is allowed and the criminal proceedings is quashed against them. It is needless to say that the present case is a counterblast of the case in CC No. 1432/2014, since the matter is amicably settled between the parties and the case against R2 and her family members/co-accused is quashed, in the light of the judgment of the Apex Court in the case of Gian Singh Vs. State of Punjab and Another, , there is no impediment to quash the charge sheet since the criminal case is the culmination of the matrimonial dispute between Smt. Chaitra (petitioner"s daughter) and Sri. Harshawardan (complainant/2nd respondent"s son).

15. The petition is allowed. The proceedings in CC No. 18796/2014, on the file of VI A.C.M.M., Bangalore against the petitioner is quashed.

16. In view of the disposal of the main petitions, IA No. 1/2015 and IA No. 1/2014 do not survive for consideration, accordingly, stand disposed of.