

(2013) 03 MP CK 0033
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 3392 of 2013

Javed Ali @ Badshah

APPELLANT

Vs

The State of Madhya Pradesh. (M. Cr. C. No.3392/2013..)

RESPONDENT

Date of Decision : 25-03-2013

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2013) 03 MP CK 0033

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Advocate : Mohd. Sadik Khan, for the Appellant; Pratibha Mishra, learned P.L. for the Respondent No. 1, for the Respondent

Judgement

U.C. Maheshwari, J.—The applicants/accused No. 1 to 4 as well as respondent No. 2 are also present in person, identified by the applicants" counsel. I am apprised by the applicants" counsel as well as of applicant No. 1 Javed Ali @ Badshah and respondent No. 2 Smt. Shahin Bano w/o Javed Ali while the D/o Sheikh Mubin that the divorce has taken place between the respondent No. 2 and applicant No. 1 on 18.2.2013. In view of such submission on asking the petitioners" counsel why the name of Javen Ali has been mentioned as husband of respondent No. 2 in the array of petition, on which he seeks permission to delete the name of Javed Ali from the particulars of the respondent No. 2.

2. Considering his prayer permission is granted. In compliance of the same the name of the Javed Ali has been deleted by the applicants" counsel from the description of respondent No. 2. The same is certified accordingly.

3. This petition is listed today for admission and consideration of IA No. 6202/13, an application for grant of stay against further proceeding of the trial Court but the applicants" counsel by referring the copy of the charge sheet said that in pendency of the impugned criminal case the amicable settlement and compromise had taken place between the parties on 18.2.2013, according to

which the applicant No. 1 has given divorce (Talak) to the respondent No. 2 and pursuant to that this case is being filed to quash the impugned criminal case No. 1081/11 pending in the Court of JMFC Jabalpur, which was initiated by the police after investigation on the FIR registered at the instance of the respondent No. 2 as Crime No. 2/2011, at Police Station Mahila Thana Jabalpur against the applicants for the offence punishable u/s 498-A of IPC r/w Section 3 /4 of Dowry Prohibition Act, hence the petition be heard finally. The copy of the charge sheet referred by the applicants' counsel is taken on record. In continuation the counsel said that inspite such amicable settlement and the compromise the applications filed with joint signature of the applicants as well as respondent No. 2 in the trial Court permitting them to compound the offence and accept such compromise were dismissed by holding that above mentioned offence being not made compoundable under the law the same could not be accepted and allowed in the matter, on which the applicants have come to this Court with this petition for quashment of the aforesaid pending criminal case along with its FIR and investigation.

4. Before giving any findings for accepting or refusing the compromise I deem fit to verify the averments of the alleged compromise from the parties present. Pursuant to it, on asking the respondent No. 2, who is present along with her father Sheikh Mubeen, she categorically stated that she got married with applicant No. 1 Javed Ali on 4.10.2010 at Jabalpur. Subsequent to that on account of some matrimonial differences she was subject to physical and other type of cruelty by the applicant No. 1 and his family members the other applicants, consequently she lodged the above mentioned FIR against them at Mahila Thana, Jabalpur, on which the aforesaid offence was registered and after holding the investigation the applicants were charge sheeted and such criminal case is pending. In continuation he said that she has been divorce by the applicant No. 1 in the month of February, 2013 and thereafter some settlement has taken place between her and applicant No. 1 and his family members, according to which she had received all the relevant goods and sum from the applicant No. 1 in accordance with personal law and in such premises she does not want to prosecute further to any of the applicants in the impugned criminal case. She further said that she had entered into compromise with the applicant No. 1 and his family members voluntarily without any undue influence from any source and in such premises she prayed to quash the impugned criminal case along with it's FIR and its investigation by allowing the petition.

5. On the other hand on asking the applicants in this regard the applicant No. 1 categorically stated that he had given the divorce to the respondent No. 2 in the month of February, 2013 and except the impugned criminal case all other disputes have been resolved between them in accordance with shariyat, rules and regulations of their personal law and prayed to quash the impugned trial by accepting the aforesaid compromise by allowing this petition.

6. On verification from the other applicants they have also prayed for quashing

the impugned trial by allowing this petition.

7. In view of the aforesaid verification the alleged compromise appears to be bonafide and genuine. In such premises this Court has to pass the appropriate order to quash the impugned criminal proceeding just to facilitate the applicant No. 1 and the respondent No. 2 to move their future life according to their own way without any interference of each other.

8. So far the impugned order of the trial Court is concerned, I am of the considered view that the trial Court has not committed any error because under the law above mentioned offences have not been made compoundable and the trial Court in the lack of any inherent power could not accept and allow such applications.

9. As per law laid down by the Apex Court in the matter of B.S. Joshi and Others Vs. State of Haryana and Another, on sufficient cause and reasons so also in the welfare of the parties the Court has inherent power and jurisdiction to quash the impugned proceeding of criminal case as well as FIR and its investigation relating to the offence of Section 498-A of IPC and Section 3 /4 of Dowry Prohibition Act.

10. In view of the aforesaid discussion and the decision of the Apex Court in the welfare of the parties, this petition is allowed and pursuant to that under inherent power of this Court enumerated u/s 482 of Cr.P.C. the trial of the impugned case along with it's FIR and investigation is hereby quashed and the applicants are set at liberty from the above mentioned charges of the Section 498-A of IPC and Section 3 /4 of Dowry Prohibition Act. It is further observed that applicants shall be entitled to get all such benefit which is available to the accused after allowing their compromise with the victims.

11. The petition is disposed of as indicated above. Copy of this order be sent to the trial Court.

C.C. as per rules.