
(2012) 02 AHC CK 0283
In the Allahabad High Court
Case No : Writ Petition No. 6297 (MB) of 2011

Juned Ahmad Farooqui

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-02-2012

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 323, 406, 498A, 504, 506

Citation : (2012) 02 AHC CK 0283

Hon'ble Judges : Ajai Lamba, J; Abdul Mateen, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This order shall dispose of two cases, namely, Writ Petition No. 6297 (MB) of 2011 titled as Juned Ahmad Farooqui and another vs. State of U.P. and others, and Writ Petition No. 6260 (MB) of 2011 titled as Nisar Ahmad Farooqui & Another vs. state of U.P. & others.

2. The two cases are being decided by virtue of one decision in view of the fact that both the petitions have been filed praying for quashing First Information Report registered on 15.06.2011 as Case Crime No. 35 of 2011, under Sections 498A, 323, 406, 504, 506 IPC and 3/4 Dowry Prohibition Act, Police Station Mahila Thana Hazratganj, Lucknow.

3. The petitioners in both the cases are arrayed as accused.

4. For reference of record, writ petition No. 6297 (M/B) of 2011 titled as Juned Ahmad Farooqui Vs. State of U.P. and others is being taken up.

5. The First Information Report came to be lodged at the instance of Smt. Shiba Khan respondent No. 4 (appended as Annexure-1 to the writ petition).

6. Smt. Shiba Khan was married to Juned Ahmad Farooqui, petitioner in Writ Petition No. 629 (MB) of 2011 on 14.06.2010. On account of a matrimonial

dispute the First Information Report came to be lodged. The petitioners in writ petition No. 6260 (M/B) of 2011 are relatives of the husband.

7. Vide order dated 28.07.2011 the matter was referred to Mediation Centre and Conciliation Centre of this Court, in view of the nature of the dispute.

8. Report has been furnished by the mediators. By way of settlement agreement dated October 11, 2011 the mediators have concluded that all the disputes and differences between the parties have been amicably settled through Mediation/ Conciliation proceedings.

9. Petitioner Juned Ahmad Farooqui and respondent No. 4-complainant have decided to live separately. At the time of settlement, a sum of Rs. 1, 50,000/- has been given by the petitioner to respondent No. 4 in settlement of all her rights arising out of the matrimony. The respondent has accepted the said amount paid by way of demand draft which has already been encashed. It has also been recorded in the settlement agreement that Juned Ahmad Farooqui the husband-petitioner has already given talaq/divorce to respondent No. 4 in accordance with Muslim Law whereafter respondent No. 4 is living with her parents. Paragraph 5 of the settlement agreement reads as under :-

Both parties agree to withdraw all pending cases against each other, the details which are as under:-

1. Case Crime No. 35/2011, u/s 498A, 323, 406, 504, 506 IPC & 3/4 D.P. Act, P.S.-Mahila Thana Hazratganj, Lucknow (FIR Lodge by O.P. Smt. Sheeba Khan, against Juned Ahmad Farooqui and his parents).

2. Case Crime No. 35/2011, u/s 498A, 323, 406, 504, 506 IPC & 3/4 D.P. Act, P.S. Mahila Than Hazratganj, Lucknow, Nisar Ahmad Farooqui & other Vs. State of U.P. & others (Lodged by O.P. Smt. Sheeba Khan in W.P. No. 6260 (M/B) of 2011).

3. Suit No. 991/2011, Declemtion Suit pending in the Court of Principal Judge Family Court, Lucknow.

In addition to above-mentioned cases if there is any other case(s) they shall also be withdrawn by either of the parties.

10. In view of the fact that the impugned First Information Report was lodged on account of matrimonial disputes, the main victim of the alleged offence would be the wife-respondent No. 4. The respondent No. 4 through mediation, has accepted the settlement as is evident from the settlement agreement, relevant portion whereof has been extracted above. In view of the settlement agreement, there is no dispute pending between the parties and the respondent No. 4, complainant/alleged victim has no reason to prosecute the petitioners in the said two writ petitions.

11. In view of the above noted facts, it would be an exercise in futility to allow the proceedings to continue. The respondent-complainant being satisfied with the

terms of settlement would not prosecute the petitioner-accused and would not bring any evidence to the Court. If the proceedings are allowed to continue not only the time of the court below, but also the time of the prosecution would be wasted. The petitioners-accused would be harassed without any reason as the proceedings are not likely to reach any logical end. Continuance of investigation or trial shall not serve any purpose in law or in facts.

12. Considering the settlement agreement through Mediation and Conciliation Centre, this Court records its satisfaction that the rights of the respondent-complainant have been settled to her satisfaction, which shall form part of the judgment.

13. Wise hour of justice is when disputes are settled by way of compromise. It reduces frictions, and harmony and cordial behavior is enhanced.

14. In case the proceedings are allowed to continue, not only the petitioners but the respondent No. 4-complainant would not be able to settle down in her future life. It would be against social amity to allow the proceedings to continue. Thus, even in the interest of peace and harmony, it would be just and proper to allow the petition in view of the compromise/settlement agreement in view of the law laid down by Hon"ble Apex Court in the case of B.S. Joshi vs. State of Haryana reported in 2003 (SCC) CrI. 848.

15. In view of the above, both the petitions are allowed. First Information Report dated 15.06.2011 relating to Case Crime No. 35 of 2011, under Sections 498A, 323, 406, 504, 506 IPC and 3/4 Dowry Prohibition Act, Police Station Mahila Thana Hazratganj, Lucknow, is hereby quashed and also proceedings arising out thereof, if any, shall also remain quashed. Further proceedings relating to Suit No. 991 of 2011 pending in the court of Principal Judge, Family Court, Lucknow shall also stand quashed.