

(2014) 10 AHC CK 0111

In the Allahabad High Court

Case No : Application U/S 482 No. -712 of 2010

Ketika Devi

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 13-10-2014

Acts Referred:

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

Citation : (2014) 10 AHC CK 0111

Hon'ble Judges : Karuna Nand Bajpayee, J

Bench : Single Bench

Advocate : A.K. Tiwari and H.K. Shukla, Advocate for the Appellant; S.K. Tiwari, Govt. Advocate, Advocate for the Respondent

Judgement

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Karuna Nand Bajpayee, J.—This application u/s. 482 Cr.P.C. has been filed with the prayer to quash the entire criminal proceedings of Case No. 1708 of 2009 (Smt. Soni Sharma Vs. Arvind and others) u/s. 498A I.P.C. read with Section- 3/4 of D.P. Act, P.S.-Nagar, District-Basti pending in the Court of Judicial Magistrate-II, Court No. 13, Basti as well as impugned summoning order dated 08.09.2009 passed by the learned Magistrate.

2. It seems that in order to explore the possibility of an amicable settlement between the parties, the matter was referred to undergo mediation proceedings. The report of Mediation Centre dated 5.8.2011 reveals that the aforesaid attempt has resulted in a mutual settlement between the parties on their own terms and conditions.

3. Heard Shri H.K. Shukla, learned counsel for the applicants and learned A.G.A. Despite repeated calls none appears for opposite party no. 2. In the wake of heavy pendency of cases in this Court where dockets are already bursting on their seams there is no reason to further procrastinate the matter. This Court,

therefore, deems it fit to decide the matter on the basis of merits of the case.

4. Record has been perused.

5. The contention of the counsel for the applicant is that as the opp. party no. 2 is not interested to pursue the matter pending in the lower court and is not inclined to give any evidence against the applicants, the acquittal of the accused-applicants is now a foregone conclusion. It shall be a sheer abuse of the court's process, if the proceedings going on in the lower court are still allowed to go on further. Submission therefore is that in the wake of the inter-se compromise arrived at in between the parties, the impugned proceedings ought to be quashed.

6. Before proceeding any further it shall be apt to make a brief reference to the following cases:

1. B.S. Joshi and Others Vs. State of Haryana and Another,

2. Nikhil Merchant Vs. Central Bureau of Investigation and Another,

3. Manoj Sharma Vs. State and Others, ,

4. Gian Singh Vs. State of Punjab and Another,

7. Reference may also be made to the decision given by this Court in Shaifullah and Others Vs. State of U.P. and Another, . in which the law expounded by the Apex court in the aforesaid cases has been expatiated in detail.

8. A perusal of the case law referred herein above makes it very clear that the Hon'ble Supreme Court has lent its judicial countenance to the exercise of inherent jurisdiction in such matters so that the abuse of the court's process may be averted. Even in the cases which involved non compoundable offences their quashing has been approved by the Apex Court if the nature of the offence is such which does not have grave and wider social ramifications and where the dispute is more or less confined between the litigating parties. A criminal litigation emanating from matrimonial dispute has been found to be the proceedings of the same class where the inherent jurisdiction of this court may be suitably exercised if the parties inter-se have mutually decided to bury the hatchet and settle the matter amicably in between them. There are many other litigations which may also fall in the same class even though they do not arise out of matrimonial disputes. Several disputes which are quintessentially of civil nature and other criminal litigations which do not have grave and deleterious social fall-outs may also be settled between the parties. In such matters also when parties approached the court jointly with the prayer to put an end to the criminal litigations in which they had formerly locked their horns, or if the record or the mediation centre's report indicates a rapprochement in between the parties, the Court in the wider public interest may suitably exercise its power and terminate the pending proceedings. Such positive exercise of the inherent jurisdiction can also find its vindication in a more pragmatic reason. When the

complainant of a case or the victim of the offence itself expresses its resolve not to give evidence against the accused in the back drop of the compromise between the parties inter-se or if the fact of inter-se compromise in between the parties is apparent on the face of record, and they are still called upon to depose in the court, they in all probability, go back on their words and resile from their previous statements, the truthfulness of which is best known only to themselves. They are in such circumstances very likely to eat their words and perjure themselves. The solemn proceedings of the court often get reduced to a sham exercise and farce in such circumstances. The proceedings can hardly be taken to their logical culmination and in such circumstances, the prospect of the conviction gets lost. In all probability, the trial becomes a futile exercise in vain and the precious time of court is attended with nothing except a cruel wastage. Of course, there are crimes which are the offences against the State and the inter-se compromise between the litigants cannot be countenanced with and the court despite the rapprochement arrived at in between the parties, would still not like to terminate the prosecution of the culprits. There are crimes of very grave nature entailing far reaching deleterious ramifications against the society. In those matters, the courts do not encourage either mediation or a compromise through negotiation and even the Apex Court has carved out exceptions and did not approve the quashing of non-compoundable offences regardless of their gravity. The Courts have to be discreet and circumspect and must see whether the exercise of inherent jurisdiction is indeed serving the ends of justice or to the contrary defeating the same.

9. In the present case in question, the matter was referred to mediation by this court itself and the matter has fructified with positive result. The existence of Mediation Centre has found its full vindication and the parties have amicably settled the controversy tormenting their lives so far. If the proceedings of lower court are still allowed to go on, it is apparent that the same shall be a sheer abuse of the court's process. The dockets of the pending cases are already bursting on their seams and the lower Courts must be allowed to engage themselves in more fruitful judicial exercise and not be saddled with matters like the one at hand whose fate is already sealed.

10. In the aforesaid circumstances of the case, it is deemed proper that in order to meet the ends of justice and avert the abuse of court's process the impugned proceedings of the aforesaid case be quashed forthwith. The same therefore, are hereby quashed.

11. The application stands allowed.

12. A copy of this order be certified to the lower court forthwith.