
(2020) 01 RAJ CK 0419

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 8141 Of 2019

Lakhan Lal

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 22-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 232, 406, 498A
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2020) 01 RAJ CK 0419

Hon'ble Judges : Sanjeev Prakash Sharma, J

Bench : Single Bench

Advocate : Hari Krishna Sharma, Sher Singh Mahla, Sunita Sharma

Final Decision : Allowed

Judgement

Both the counsel agreed that a compromise has been arrived at between estranged wife & husband as also other members of the family. The wife

had filed a case under Sections 406 and 498A IPC wherein the compromise has been duly filed before the concerned court. On the basis of

compromise, the trial court has compounded the offences under Sections 323 and 406 IPC. However, so far as offence under Section 498A IPC is

concerned, the same is not compoundable, the compromise has not been applied thereto.

Learned counsel for petitioner as well as complainant jointly submitted that proceedings initiated under Section 498A IPC be quashed keeping in view

the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab, reported in (2012) 10 SCC 303 and in B.S. Joshi & Ors. Vs. State

of Haryana & Anr., reported in (2003) 4 SCC 675.

I have considered the submissions of learned counsel for the parties.

Keeping in view the law laid down by the Apex Court in the case of Gian Singh (supra), the Apex Court has held as under:

But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly

the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating

to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this

category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the

possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme

injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other

words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or

continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and

wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is

in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

In the case of B.S. Joshi (supra), the Supreme Court has held as under:

13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very

apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of

matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life

and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes

in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered

helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging

matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their ""young"" days in chasing their ""cases"" in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the 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 hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that 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 XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.

Applying the law laid by the Apex Court in the judgments (supra) and to meet the ends of justice, this court is satisfied that the power under Section 482 Cr.P.C. requires to be invoked for quashing the proceedings initiated under Sections 498A IPC in the FIR No.116/2016.

Accordingly, the present criminal misc. petition is allowed.

The FIR No.116/2016 and the proceedings initiated thereto are quashed and set aside.