
(2015) 05 RAJ CK 0160

In the Rajasthan High Court

Case No : Criminal Misc. Petition No. 1466 of 2015

Mahendra and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-05-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 320, 482
Penal Code, 1860 (IPC) — Section 406, 498-A

Citation : (2015) 05 RAJ CK 0160

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Bheemkant Vyas, for the Appellant; Vikram Singh Rajpurohit, Public Prosecutor, Advocates for the Respondent

Final Decision : Allowed

Judgement

Vijay Bishnoi, J.—This criminal misc. petition under Section 482 Cr.P.C. has been filed by the petitioners with a prayer that the order dated 12.05.2015 passed by the Additional Chief Judicial Magistrate No. 4, Jodhpur Metropolitan (hereinafter referred to as "the trial court") in Criminal Regular Case No. 455/2009 as well as the FIR No. 9/2008 dated 14.01.2008 of Police Station, Women, District Jodhpur may kindly be quashed and set aside on the basis of compromise arrived at between the parties. The trial court vide order dated 12.05.2015 has attested the compromise for the offence punishable under Section 406 IPC but refused to attest the compromise for the offence punishable under Section 498-A IPC as the same is not compoundable.

2. In the instant case the respondent No. 2 has filed a complaint in the trial court under Section 156(3) Cr.P.C. and the same has been forwarded to the concerned police station for investigation. The Police Station, Women, District Jodhpur has registered the FIR No. 9/2008 and after investigation, filed charge sheet against the petitioners for offences punishable under Sections 406 and 498-A IPC in the trial court wherein the trial is pending against the petitioners for the aforesaid

offence. During the pendency of the trial, an application was preferred on behalf of the respondent No. 2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending against the petitioners may be terminated. The trial court vide order dated 12.05.2015 allowed the parties to compound the offence punishable under Section 406 IPC, however, rejected the application so far it relates to compounding the offence punishable under Section 498-A IPC.

3. The present criminal misc. petition has been preferred by the petitioners for quashing the said proceedings against them.

4. The learned counsel for the petitioners has argued that as the complainant-respondent No. 2 and the petitioners have already entered into compromise and on the basis of it, the petitioners has been acquitted for the offence punishable under Section 406 IPC, there is no possibility of conviction of the petitioners for the offence punishable under Section 498-A IPC. It is also argued that no useful purpose would be served by continuing the trial against the petitioners for the offence punishable under Section 498-A IPC because the same may derail the compromise arrived at between the parties.

5. The learned counsel for the respondent No. 2 has admitted that the parties have already entered into compromise and the respondent No. 2 does not want to press the charges levelled against the petitioners in relation to offence punishable under Section 498-A IPC.

6. The Hon"ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab and Another, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 has held as below:--

"57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot

provide for any basis for quashing criminal proceedings involving such offences. 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."

7. Having considered the facts and circumstances of the case and looking to the fact that the petitioners and respondent No. 2 has entered into compromise and resolved their matrimonial dispute amicably, there is no possibility of accused-petitioners being convicted in the case pending against them. When once the matrimonial dispute have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

8. Keeping in view the observations made by the Hon"ble Supreme Court in Gian Singh's case (supra), this Court is of the opinion that it is a fit case, wherein the criminal proceedings pending against the petitioners can be quashed while exercising powers under Section 482 Cr.P.C.

9. Accordingly, this criminal misc. petition is allowed and the criminal proceedings pending against the petitioners before the Additional Chief Judicial Magistrate No. 4, Jodhpur Metropolitan in Criminal Regular Case No. 455/2009 arising out of the FIR No. 9/2008 dated 14.01.2008 of Police Station, Women, District Jodhpur are hereby quashed.

10. Stay petition also stands disposed of.