
(2012) 10 JH CK 0039

In the Jharkhand High Court

Case No : Criminal M.P. No. 1734 of 2012

Om Prakash Gupta, Basant Saw and Sarla Devi

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 01-10-2012

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 315, 34, 498A

Citation : (2013) 1 AJR 442

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Indrajeet Sinha, for the Appellant; Tapas Roy, APP for the State and Mr. K. Sarkhel, Advocate for the Complainant, for the Respondent

Final Decision : Allowed

Judgement

R.R. Prasad

1. Heard learned senior counsel appearing for the petitioners and the learned counsel for the State. First information report of Chakradharpur P.S. Case No. 81 of 2012 (G.R. No. 1716/12), instituted under Sections 498A, 315 and 34 of the Indian Penal Code and also under Sections 3 and 4 of Dowry Prohibition Act, is being sought to be quashed on the ground that the parties have settled their matrimonial dispute and they have entered into a compromise.

2. It is the case of the complainant that immediately after marriage she was being subjected to torture on account of non-fulfillment of the demand of dowry such as cot, Golden and Silver ornaments etc. When she carried pregnancy, all the accused persons forced her to have test of sex determination and then the accused persons brought her to Bilaspur where the accused persons get her pregnancy terminated. When she carried pregnancy again the accused persons again started forcing her to have sex determination test and in order to abort pregnancy they assaulted her and ultimately she was driven out of house. On such allegations, Chakradharpur P.S. Case No. 81 of 2012 was registered under

Sections 498A, 315 and 34 of the Indian Penal Code and also u/s 3 and 4 of the Dowry Prohibition Act.

3. Learned counsel appearing for the petitioners submits that after institution of the case, when the petitioners moved for bail, the matter was referred to the Mediation Center, Chaibasa, where the dispute in between the wife and husband got resolved in the following terms:-

1. That it has been mutually agreed between the parties that since the informant is pregnant of about 7 months, she shall remain in her Maika at Ramgarh till delivery of the child and after the delivery of the child, the couple shall live together upto one year in a separate house in Chakradharpur and if the situation is satisfactory, they shall return back to their original house at Chakradharpur.

2. That it is mutually settled that both the parties shall treat each other with dignity and give all respect to each other. They shall give each other the love and affection of a husband and wife and lead a happy married life.

3. That it is settled that the husband Om Prakash gupta himself shall take all the care and fulfill the day to day requirements of the informant wife Pramila Sahu, the minor daughter and the child in the womb. The husband shall provide all the necessary support to the wife Pramila Sahu during this pregnancy period and also after the birth of the child.

4. That husband Om Prakash Gupta accepts his responsibility and liability of properly looking after his wife Pramila Sahu & daughter and the wife Pramila Sahu also accepts her responsibility to take proper care of her husband.

5. That the parties have agreed that they shall ensure that the in-laws of both the parties shall not interfere in their personal life and shall not subject any of the parties to mental or physical torture.

6. That the parties also agreed to give all due respect to their respective in-laws particularly the father-in-law and not to cause any insult or humiliation to them.

7. That in order to put an end to all the conflicts between them, the parties have mutually agreed that they shall not proceed further with this case. There is no other case pending in between the parties and the parties shall avoid institution of further cases against each other.

8. That the parties entered into the present compromise agreement out of their own free will and consent, without any fear, coercion or undue influence from any corner whatsoever.

9. That the parties shall be bound by this agreement and shall cooperate to execute the settlement in every possible manner.

4. In terms of the said settlement, presently the girl is living at her parent house and she will stay there till the delivery of the child.

5. A counter affidavit has been filed wherein it has been admitted that both the

parties having resolved their matrimonial dispute, have compromised the case.

6. Having heard learned counsel appearing for the parties, it does appear that the case has not only been registered u/s 498A but also under Sections 315 and 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act, but those offences u/s 315 and 34 IPC and 3 and 4 of the Dowry Prohibition Act, are the outcome of the main offence, which has been alleged to have been committed u/s 498A of the Indian Penal Code and, therefore, since the main offence has been compromised, the compromise arrived at in between the parties is hereby accepted in view of the decision rendered in the case of B.S. Joshi and Others Vs. State of Haryana and Another, " wherein it has been observed as hereinunder:-

There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent 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 counterproductive 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 XX-A of the Indian Penal Code.

7. That decision was with respect to the offence u/s 498A, but here the FIR has been lodged not only u/s 498A but also under Sections 315, 34 IPC and u/s 3 and 4 of the Dowry Prohibition Act. But it can be said that both the offences are the outcome of the offence of matrimonial dispute and hence, if the offence, being non-compoundable, is not allowed to be compounded, it would be a counter productive and would act against the interest of the opposite party-wife.

8. In such situation, the first information report of Chakradharpur P.S. Case No. 81 of 2012 (G.R. No. 1716/12), instituted under Sections 498A, 315 and 34 of the Indian Penal Code and also under Sections 3 and 4 of Dowry Prohibition Act, Chaibasa, is hereby quashed. In the result, this application stands allowed.