
(2010) 08 RAJ CK 0012
In the Rajasthan High Court

Om Prakash Vaishnav and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 06-08-2010

Acts Referred:

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

Citation : (2010) 08 RAJ CK 0012

Hon'ble Judges : S.P. Pathak, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.P. Pathak, J.—By this petition u/s 482 Cr.P.C., a prayer has been made by the petitioners to quash the criminal proceedings pending against them for the offence u/s 498A and 406 IPC in the court of Additional Civil Judge (Senior Division) & Additional Chief Judicial Magistrate, Bundi.

2. The facts in brief are that respondent No. 2 Smt. Ekta Vaishnav lodged a written report in the police station Kotwali, Bundi alleging therein that she was maltreated and harassed. It was also alleged that her in-laws used to tease her for demand of dowry. On the report, an FIR was registered in the concerned police station and after completion of investigation charge-sheet was filed. Now, the matter is pending for trial before the learned trial court.

3. An application was moved u/s 320 Cr.P.C. to attest the compromise. The learned trial court finding that the offence u/s 498A IPC was not compoundable, therefore, rejected the application. Hence, this petition has been filed.

4. I have heard learned Counsel for both sides.

5. It has been contended that the parties have settled the matter between themselves and they do not want to keep the criminal proceedings pending in the court alive and want to live peacefully. It is also contended that a decree of divorce has been granted by the learned Judge, Family Court, Ajmer vide order

dated 4.1.2010, therefore, now the parties are no more interested to live together and want to lead peaceful life independently.

6. The counsel for the complainant did not dispute the factual aspect and submitted that divorce has been granted and the parties have compromised the matter, therefore, she does not want to continue the criminal proceedings against the petitioners.

7. In the case of Saleem and Ors. v. State of Rajasthan and Ors. RLW 1998 (1) (Raj.) 202, it has been held that the court has inherent powers to quash the proceedings, though the offence is not compoundable. Inherent powers can be exercised to prevent the abuse of the process or otherwise to secure the ends of justice. Though the offence u/s 498A is not compoundable as per Section 320 Cr.P.C., but the court is competent to quash the proceedings in exercise of its inherent jurisdiction.

8. In another case in Manoj Kumar Vs. State of Rajasthan, this Court quashed the proceedings u/s 498-A IPC in view of the compromise between the parties exercising its powers u/s 482 Cr.P.C. and proceedings of criminal case No. 137/1997 u/s 498A IPC pending in the court of Additional Chief Judicial Magistrate No. 2, Jodhpur and the order of the learned District Judge, Jodhpur dated 12.6.1998 were quashed.

9. In B.S. Joshi and Ors. v. State of Haryana and Anr. 2003 (1) WLC (SC) Cri. 579, it was held by the Apex Court as under:

We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar in exercise of the power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.

10. After having considered the facts and circumstances of the case and also considering the law laid down by this Court and the Hon'ble Apex Court that in such matters when the parties decide to live independently then even if the alleged offences in a circumstance may not be compoundable, Section 320 Cr.P.C. would not be a bar in exercise of power of quashing criminal proceedings u/s 482 Cr.P.C., therefore, I deem it proper for the purpose to secure ends of justice to quash the criminal proceedings pending before the trial court.

11. In the result, the petition is allowed and the proceedings pending in case No. 212/2006 (State v. Om Prakash and Ors.) before the court of Additional Civil Judge (S.D.) and Additional Chief Judicial Magistrate Bundi for the offence under Sections 498A and 406 IPC are hereby quashed and set aside.