

(2014) 09 KAR CK 0330
In the Karnataka High Court
Case No : Criminal Petition No. 6067 of 2014

R. Srinivasa and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Constitution of India, 1950 — Article 142
Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13(B)
Penal Code, 1860 (IPC) — Section 323, 34, 498A, 498-A, 504

Citation : (2015) 1 AKR 88 : (2015) 3 KCCR 2057

Hon'ble Judges : K.N. Phaneendra, J

Bench : Single Bench

Advocate : Anandeeswara D.R, Advocates for the Appellant; B. Visweswaraiah, H.C.G.P. and H.M. Kishor Kumar, Advocates for the Respondent

Judgement

K.N. Phaneendra, J.—Sri. R. Srinivasa, Petitioner No. 1 and Sri. Anandeeswar, learned counsel for the petitioners are present before the Court. Respondent No. 2 is also present before the Court. Sri. H.M. Kishor Kumar, learned advocate files vakalath on behalf of respondent No. 2. Heard both sides. Both the parties admit that they have compromised the matter and resolved the conflict between themselves in MC No. 3447/2013 and in this regard, they have entered into a Memorandum of Settlement before the Family Court at Bangalore.

2. The records disclose that the parties have filed the said Memorandum of Settlement before the Principal Judge, Family Court, Bangalore in MC No. 3447/2013 and the said Petition is filed for divorce u/S. 13(B) of the Hindu Marriage Act, was allowed by the Court vide order dated 11.3.2014. When the dispute arose between the parties, it appears, the wife has also filed a complaint against the husband and his relatives for the offences punishable under sections 498-A, 323, 506 of IPC and also under Sections 3 & 4 of Dowry Prohibition Act and the same was investigated and it was culminated in CC No. 41749/2010

pending on the file of the III Addl. CMM, Bangalore. The parties have compromised the matter between themselves. Both of them prayed for quashing of the entire proceedings pending before the criminal Court. There is no legal impediment for this Court to quash the proceedings.

3. Before granting such permission to compound the offences, it is relevant to refer to the latest pronouncement of the Apex Court in the case of Jitendra Raghuvanshi and Others Vs. Babita Raghuvanshi and Another, , wherein the Hon"ble Apex Court while dealing with the provisions of Sections 482 and 320 of Cr.P.C., the Hon"ble Apex Court has held that -

"The inherent powers of the High Court under Section 482 of Cr.P.C. are wide and unfettered. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. Exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. Thus, the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320, Cr.P.C. does not limit or affect the powers of the High Court under Section 482 of Cr.P.C.

Consequently, even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, it is held that for the purpose of securing ends of justice, Section 320, Cr.P.C. would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings. The Institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482, Cr.P.C. enables the High Court and Article 142 of the Constitution enables the Supreme Court to pass such orders.

In the present case, the appellants (the husband and his relatives, accused under Section 498-A read with Section 34, IPC and Sections 3 and 4, Dowry Prohibition Act, 1961) had not sought compounding of the offences. They had approached the High Court under Section 482 of Cr.P.C. for quashing of the criminal proceedings. The High Court ought to have quashed the criminal proceedings in question by accepting the settlement arrived at by the parties concerned."

4. In view of the above facts and circumstances of the case and also the decision cited supra, there is no legal impediment to quash the proceedings as prayed for, as the matter is relating to matrimony and it has no societal impact if the compromise is allowed. The provisions invoked, particularly Section 498A of IPC, is non-compoundable in nature, the parties have approached this Court in order to put an end to their conflict. In order to facilitate the first petitioner and the second respondent to live happily in their future, it is just and necessary to quash the entire proceedings as prayed for. Hence, the following Order:

"The Petition is allowed. The proceedings initiated by the respondent in CC No. 41749/2010 pending on the file of the III Addl. CMM, Bangalore, for the offence punishable under Sections 498-A, 504, 506 and 323 of IPC and Sections 3 & 4 of Dowry Prohibition Act read with Section 34 of IPC is hereby quashed."