

(2011) 02 JH CK 0083

In the Jharkhand High Court

Case No : Criminal M.P. No. 864 of 2010

Rajesh Kumar, Mahendra Prasad Singh, Lalita Devi @ Ram
Shila Devi and Dimpal Devi

APPELLANT

Vs

The State of Jharkhand and Pammi Kumari

RESPONDENT

Date of Decision : 21-02-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 323, 34, 498A

Citation : (2011) 2 JCR 327

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Judgement

D.K. Sinha, J.—The Petitioner has invoked the inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure for the quashment of the entire criminal proceeding including the order taking cognizance. The learned Judicial Magistrate after enquiry, found prima facie offence under Sections 498A/323/34 of the Indian Penal Code in C.P. Case No. 232 of 2005 against the accused.

2. The learned Counsel Mr. Sanjeev Thakur at the outset submitted that the dispute was resolved between the parties after some time and a joint compromise petition was filed in the Court of Sri R.S. Singh, Judicial Magistrate, 1st Class, Bokaro in C.P. Case No. 232 of 2005 on 04.01.2006 duly signed by the complainant Pammi Kumari and all the four accused stating therein that with the intervention of the well-wishers and common friends both the parties compromised the case outside the Court and they did not want to proceed further more but since the Sections of the alleged offence were non-compoundable in nature, a separate petition for withdrawal was filed on behalf of the complainant. In the separate petition filed by the complainant on the same day on 04.01.2006 she stated that good relationship was restored between the parties and she did not want to proceed with the case and she had no loner grievance against the accused and since the sections were not compoundable,

hence separate petition was filed for obtaining permission to compromise the case.

3. Finally, the learned Counsel submitted that the said two petitions and one more are left pending without any order of the Trial Magistrate whatsoever and now bail bond of the Petitioners have been cancelled and warrants of arrest have been issued against them. The Petitioners were under impressions that compromise petitions were filed on behalf of the parties and consequently decree of divorce was passed by the mutual consent of the complainant wife and the accused husband Rajesh Kumar u/s 13B Hindu Marriage Act, they did not appear in this case perhaps on wrong notions. The Petitioners may be permitted to file compromise petition afresh in view of the proposition laid down in B.S. Joshi's case.

4. Heard the learned A.P.P. on behalf of the State-Opposite Party.

5. In view of the above submissions this petition of the Petitioners is disposed of with the liberty to file a compromise petition within 15 days of the receipt of the communication of this order by giving reference to the B.S. Joshi's case and the order shall be passed within a week thereafter in accordance with law. In the meantime taking the considered view, no coercive step shall be taken against them during period of limitation mentioned here-in-above.