

(2013) 12 AHC CK 0116

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 22554 of 2012

Rakesh Kumar and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2014) 1 ACR 208 : (2013) 11 ADJ 733 : (2014) 85 ALLCC 436

Hon'ble Judges : Karuna Nand Bajpayee, J

Bench : Single Bench

Advocate : Mahendra Kumar Sharma and Pavan Kishore, for the Appellant;

Final Decision : Allowed

Judgement

Karuna Nand Bajpayee, J.—This application u/s 482, Cr.P.C. has been filed by applicants Rakesh Kumar, Rajesh Kumar, Smt. Rinki, Ram Adhar and Smt. Shanti Devi with the prayer to quash the entire proceedings of Case No. 5094 of 2009, State v. Rakesh Kumar and others, under Sections 498A, 323, 504 and 506, I.P.C. and 3/4. Dowry Prohibition Act, P.S.-Karchhana, District-Allahabad pending in the Court of A.C.J.M., Court No. 4, Allahabad.

2. As the matter emanated from a matrimonial dispute the same was referred to the District Mediation Centre at Allahabad. The parties agreed to settle their dispute amicably and have decided to live together peaceably. A supplementary-affidavit has also been filed on behalf of the applicants, which is on record. The perusal of same also reveals that the parties are living together happily as husband and wife and no dispute is pending any more.

3. On the former date the opposite party No. 2 was summoned by the Court to appear in person who in compliance with the order dated 4.12.2013 has presented herself before the Court. It is an unfortunate fact that she is deaf and dumb both. Her father, who is opposite party No. 3 and the complainant of this case, has accompanied her and the queries made by the Court have been conveyed and communicated to her through her father and she had given her

positive responses. There is no ambiguity in her positive response. The Court itself has given sufficient time to make clear the queries made by itself and she in a very conspicuous manner answered them all by making such gestures which were more eloquent than speech. The Court is very well in a position to understand that she has no objection if the proceedings going on in the lower court are quashed as she is not only living alongwith her husband peaceably but has no grievance left anymore.

4. Sri Mahendra Kumar Sharma, learned counsel for the applicants and Sri Mahendra Pratap Yadav, learned counsel for opp. party Nos. 2 and 3 have been heard alongwith learned A.G.A.

5. Counsel for the applicants have placed reliance on the following cases:

1. B.S. Joshi and Others Vs. State of Haryana and Another, .

2. Nikhil Merchant Vs. Central Bureau of Investigation and Another, ,

3. Manoj Sharma Vs. State and Others, ,

4. Gian Singh Vs. State of Punjab and Another, .

6. Reliance has also been placed on the decision given by this Court in Shaifullah and Others Vs. State of U.P. and Another, , in which the law expounded by the Apex Court in the aforesaid cases has been expatiated in detailed.

7. A perusal of the case law cited by the counsel makes it very clear that the Hon"ble Supreme Court has lent its judicial countenance to the exercise of inherent jurisdiction in such matters so that the abuse of the court's process may be averted. Even in the cases which involved non-compoundable offences their quashing has been approved by the Apex Court if the nature of the offence is such which does not have grave and wider social ramifications and where the dispute is more or less confined between the litigating parties. A criminal litigation emanating from matrimonial dispute has been found to be the proceedings of the same class where the inherent jurisdiction of this court may be suitably exercised if the parties inter se have mutually decided to bury the hatchet and settle the matter amicably in between them. There are many other litigations which may also fall in the same class even though they do not arise out of matrimonial disputes. Several disputes which are quintessentially of civil nature and other criminal litigations which do not have grave and deleterious social fall-outs may also be settled between the parties. In such matters also when parties approached the court jointly with the prayer to put an end to the criminal litigations in which they had formerly locked their horns, the Court in the wider public interest may suitably exercise its power and terminate the pending proceedings. Such positive exercise of the inherent jurisdiction can also find its vindication in a more pragmatic reason. When the complainant of a case or the victim of the offence itself expresses its resolve not to give evidence against the accused in the back drop of the compromise between the parties inter se, and they are still called upon to depose in the court, they in all probability, go back

on their words and resile from their previous statements, the truthfulness of which is best known only to themselves. They are in such circumstances very likely to eat their words and perjure themselves. The solemn proceedings of the court often get reduced to a shame exercise and farce in such circumstances. The proceedings can hardly be taken to their logical culmination and in such circumstances, the prospect of the conviction gets lost. In all probability, the trial becomes a futile exercise in vain and the precious time of court is attended with nothing except a cruel wastage. Of course, there are crimes which are the offences against the State and the inter se compromise between the litigants cannot be countenanced with and the court despite the rapprochement arrived at in between the parties, would still not like to terminate the prosecution of the culprits. There are crimes of very grave nature entailing far reaching deleterious ramifications against the society. In those matters, the courts do not encourage either mediation or a compromise through negotiation and even the Apex Court has carved out exceptions and did not approve the quashing of non-compoundable offences regardless of their gravity. The Courts have to be discreet and circumspect and must see whether the exercise of inherent jurisdiction is indeed serving the ends of justice or to the contrary defeating the same.

8. In the aforesaid circumstances of the case at hand the court itself had referred the matter to the mediation which has fructified into positive result. A broken house has come back to life again, it shall not only be abuse of the court's process but shall also be a travesty of justice, if even in such circumstances, where husband and wife started living together, this court cold shoulders them and forces them once again to Join the issue and lock horns with each other.

9. The existence of Mediation Centre has found its full vindication and the parties have amicably settled the controversy tormenting their lives so far. If the proceedings of lower court are still allowed to go on, it is apparent that the same shall be a sheer abuse of the court's process. The dockets of the pending cases are already bursting on their seams and the lower Courts must be allowed to engage themselves in more fruitful judicial exercise and not be saddled with matters like the one at hand whose fate is already sealed.

10. In the aforesaid circumstances of the case, it is deemed proper that the impugned proceedings of the aforesaid case be quashed forthwith. The same therefore, are hereby quashed.

11. The application stands allowed.

12. A copy of this order be certified to the lower court forthwith.