
(1996) 01 RAJ CK 0048

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 193 of 1991

Ram Sharan and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 24-01-1996

Acts Referred:

Penal Code, 1860 (IPC) — Section 109, 406, 494, 498A

Citation : (1996) 2 WLN 588

Hon'ble Judges : N.L. Tibrewal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.L. Tibrewal, J.—The petitioners have approached this Court for quashing and setting aside the order dated 31.1.91 whereby cognizance has been taken against them for offences under Sections 494 and 406 IPC.

2. On a complaint, filed by the wife non-petitioner No. 2, the learned Magistrate has taken cognizance u/s 494 and 406 IPC against the petitioner No. 1 and u/s 494/109 IPC against the petitioners Nos. 2 to 4.

3. The wife, non-petitioner No. 2 has not appeared before this Court to oppose this petition.

4. From the material available on record, it appears that the non-petitioner No. 2 was married to petitioner No. 1 in the year 1983 but their marriage did not prove to be successful. The petitioner, thereafter, filed a petition for divorce in the year 1986. During the pendency of the divorce petition, the wife, non-petitioner No. 2 initiated proceedings u/s 498A IPC as well as the present criminal proceedings.

5. Subsequently, in the divorce petition, the parties have obtained divorce by mutual consent. The petitioner No. 1 has also paid a sum of Rs. 1,90,000/- to the wife non-petitioner No. 2 and to her minor child by way of permanent alimony. All the Articles of Estri-Dhan have also been returned to the wife. Thus,

the parties have settled the disputes and they have started a new life.

6. On merits also, I perused the evidence on the basis of which, cognizance has been taken and I find that the evidence led by the complainant is quite vague. Taking into consideration all the facts, I find it a fit case where the order taking cognizance by the Magistrate deserves to be quashed.

7. Consequently, the petition is allowed. The impugned order taking cognizance against the petitioners by the trial court is set aside.