
(2010) 09 AHC CK 0290
In the Allahabad High Court

Ramesh Kumar Sharma & Ors.

APPELLANT

Vs

Chief Judicial Magistrate, Lucknow & Ors.

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

Citation : (2010) 09 AHC CK 0290

Hon'ble Judges : Raj Mani Chauhan, J

Final Decision : Allowed

Judgement

Raj Mani Chauhan, J.—Km. Neelam Chaurasiya, Advocate puts in appearance on behalf of the Opposite Party Nos. 2 and 3 and files power on their behalf along with counter affidavit, which are taken on record.

Heard learned counsel for the petitioners, learned counsel for the Opposite Party Nos. 2 and 3 and learned Additional Government Advocate for the State as well as perused the documents available on record.

2. This petition under Section 482 of the Code of Criminal Procedure (hereinafter referred to as the "Code") has been filed by the petitioners with the following prayers:

"It is most respectfully prayed that this Hon'ble Court may graciously be pleased to quash the impugned Charge Sheet No. 111/99 arising out of case Crime No. 174/99, under Sections 498A/504/506 IPC and 3/4 Dowry Prohibition Act as well as the entire proceedings of Criminal Case No. 5929/2003 (State Vs. Ramesh Kumar Sharma & Others) pending in the Court of learned Chief Judicial Magistrate, Lucknow."

3. The submission of learned counsel for the petitioners is that the Opposite Party No. 3 Smt. Meenakshi Sharma was the legally wedded wife of the the Petitioner No. 1 Ramesh Kumar Sharma. The relations between the two became strained consequently the Opposite Party No. 3 went to her parental home and started to live there with her parents. The Opposite Party No. 3 filed a petition under Section 13 of the Hindu Marriage Act before the learned Principal Judge,

Family Court, Lucknow against the Petitioner No. 1 for dissolution of their marriage. The Opposite Party No. 3 also moved an application under Section 125 of the Code against the Petitioner No. 1 for maintenance. She, thereafter, lodged a First Information Report at Crime No. 147/99, under Sections 498A/504/506 IPC and 3/4 Dowry Prohibition Act at Police Station Alambagh, District Lucknow. The petitioner preferred Writ Petition for quashing the First Information Report before this Hon''ble court in which the Hon''ble Court was pleased to stay the arrest of the petitioners. During the pendency of criminal case a good sense developed between the parties and they entered into a compromise and they finally decided to live separate and their marriage be dissolved. The Petitioner No. 1 was also ready to return the presents, etc given by the parents of the Opposite Party No. 3. The Petitioner No. 1 in terms of the compromise, returned the articles to the Opposite Party No. 3. The learned Principal Judge, Family Court, Lucknow allowed the petition filed by the Opposite Party No. 3 vide order dated 17.11.2005 in the light of compromise and the marriage between the Petitioner No. 1 and the Opposite Party No. 3 was dissolved. The Opposite Party No. 3 got her application under Section 125 of the Code dismissed. The Opposite Party No. 3 after dissolution of her marriage with Petitioner No. 1 had entered into remarriage and now she does not want to prosecute the impugned criminal case pending before the learned Chief Judicial Magistrate, Lucknow. Therefor, the ChargeSheet No. 111/99 arising out of case Crime No. 174/99, under Sections 498A/504/506 IPC and 3/4 Dowry Prohibition Act as well as the entire proceedings of Criminal Case No. 5929/2003 (State Vs. Ramesh Kumar Sharma & Others) pending in the Court of learned Chief Judicial Magistrate, Lucknow are liable to be quashed.

4. The Opposite Party No. 3 Smt. Meenakshi Sharm and her father Opposite Party No. 2 Shivbachan Sharma are present before the Court who are identified by Km. Neelam Chaurasiya, Advocate. The Opposite Party No. 3 in her counter affidavit has admitted the facts as submitted by learned counsel for the petitioners. The Opposite Party No. 3 states before the Court that she has already entered into compromise with the Petitioner No. 1 and on the basis of said compromise, the marriage between her and the Petitioner No. 1 has been dissolved vide order dated 17.11.2005 passed by the learned Principal Judge, Family Court, Lucknow. She further states that she has already entered into remarriage.

5. Since, the parties have settled their dispute and the application filed by the Opposite Party No. 3 under Section 125 of the Code as well as the petition under Section 13 of the Hindu Marriage Act have already been decided. Keeping in view the law down by the Hon''ble Apex Court in the case of B.L. Joshi Vs. State of Haryana reported in 2003 4 SCC 665, it will be proper to quash the impugned chargesheet as well as the entire proceedings of criminal case arising out of the impugned chargesheet.

6. The petition is, therefore, allowed.

7. The impugned Charge Sheet No. 111/99 arising out of case Crime No. 174/99,

under Sections 498A/504/506 IPC and 3/4 Dowry Prohibition Act as well as the entire proceedings of Criminal Case No. 5929/2003 (State Vs. Ramesh Kumar Sharma & Others) pending in the Court of learned Chief Judicial Magistrate, Lucknow are quashed.