
(2016) 09 RAJ CK 0086

In the Rajasthan High Court

Case No : Civil Misc. Appeal No. 107 of 2015.

**Rashmi Sharma W/o Ashwini Sharma D/o Shri Mohan Lal Sharma, By
Caste Brahmin, Age about 27 years, Presently residing at Baroda Mev,
Laxmangarh, Distt. Alwar (Rajasthan) - Appellant-Non-Applicant @HASH
Ashwini Sharma S/o Shri Hari Shankar Sharma, By Caste**

Date of Decision : 20-09-2016

Acts Referred:

Hindu Marriage Act, 1955 — Section 13(1)(ia)

Citation : (2016) 4 DNJ 1607

Hon'ble Judges : Navin Sinha, CJ. and Vijay Kumar Vyas, J.

Bench : Division Bench

**Advocate : Mr. Sudesh Bansal and Mr. Aatish Jain, Advocates, for the Appellant;
Mr. Rakesh Chandel on behalf of Mr. Poonam Chand Bhandari, Advocates, for the
Respondent**

Final Decision : Disposed Off

Judgement

1. The present appeal arises from order dated 17.12.2014 in Case No. 206/2011, by the Family Court No. 1, Jaipur granting divorce under Section 13(1)(i-a) of the Hindu Marriage Act (hereinafter referred to as "the Act") pursuant to an application presented by the respondent on grounds of cruelty.

2. Learned counsel for the parties jointly submit that the appellant is a Postgraduate and the respondent is a B. Tech in Software employed in Tata Consultancy Services and has even been on deputation to the Office of his employer in Paris. They were married on 16.02.2010 at the age of approximately 22 years. Today they are approximately 28 years of age. As adults they have realised their incompatibility of companionship with each other. They have therefore taken a matured decision as adults to part ways respectfully without rancour or ill-will against each other and for that reason the appellant is not interested in pursuing the appeal for reasons recorded hereinafter.

3. The respondent has agreed to pay and the appellant has agreed to accept a sum of Rs. 8,00,000/- (Rs. Eight lacs) only in full and final settlement as one

time permanent alimony to be paid to the appellant under Section 25 of the Act. This amount shall be paid by the respondent to the appellant within a period of four weeks from today by way of a Demand Draft in the name of the appellant. Since this undertaking has been given in course of this proceeding leading to a consent order, non-compliance of the undertaking may have its ramifications and consequences for the respondent. The appellant agrees that she has no other civil or financial claims against the respondent and shall not raise any such claims hereinafter.

4. Counsel for the appellant further submits that she undertakes not to pursue Criminal Case No. 23/281/2011 registered pursuant to FIR No. 72/2011, dated 15.04.2011, Police Station Baroda Mev, District Alwar, presently pending before the Judicial Magistrate, Laxmangarh, Alwar under Sections 498A and 406 IPC and she has no objection if it is quashed. Likewise the appellant further agrees to withdraw the proceedings under Section 125 Criminal Procedure Code unconditionally bearing No. 1073/2013 registered originally before the Family Court, Alwar, now transferred to the Court of the concerned A.D.J., Laxmangarh and in which no orders for payment of any kind has been passed till today. Counsel for the parties are further agreed that in the peculiar facts and circumstances of the case, it shall be treated as a "no fault divorce" and the findings shall not be taken to have been affirmed.

5. We have considered the submissions on behalf of the parties.

6. Both of them were married at a young age and are still in their youth with their whole life ahead of them. If as matured adults they have taken a conscious decision with regard to their incompatibility as human beings and have decided to part ways with respect to start their lives afresh, it becomes the duty of the Court to facilitate the same rather than to go by technicalities of the law.

7. While the appeal is disposed in terms of the settlement arrived at between the parties with regard to payment of one time permanent alimony with no further claims against each other, the withdrawal of the proceedings under Section 125 Criminal Procedure Code by the appellant, we consider the present a fit case to invoke our inherent powers under Section 482 Criminal Procedure Code for quashing Criminal Case No. 23/281/2011 under Sections 498A and 406 IPC pending before the Judicial Magistrate, Laxmangarh. In (2003) 4 SCC 675, B.S. Joshi And Others v. State of Haryana And Another, dealing with quashing of a complaint under Section 498A, 323 and 406 IPC declined by the High Court for the reason that it was not compoundable, in view of the subsequent developments when the parties to the matrimonial dispute had settled their differences and agreed for mutual divorce, it was observed as follows :-

"12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693] are very apt for determining the

approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counseled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code."

8. The criminal proceedings pending before the Judicial Magistrate, Laxmangarh are therefore quashed.

9. The present appeal is disposed in terms of the consent and mutual settlement arrived at between the parties.