

(2015) 11 KAR CK 0029
In the Karnataka High Court
Case No : Criminal Petition No. 100424/2014

Ravikumar Pawar and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 17-11-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13(B)
Penal Code, 1860 (IPC) — Section 143, 147, 149, 448, 489A

Citation : (2015) 11 KAR CK 0029

Hon'ble Judges : Budihal R.B., J.

Bench : Single Bench

Advocate : Neelendra D. Gunde, Advocate, for the Appellant; Raja Raghavendra Nai, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Budihal R.B., J.—Though respondent No. 2 is served with notice, remained absent and there is no representation.

2. Though the matter is listed for admission, with the consent of the learned counsel for the petitioner and the learned HCGP for respondent No. 1, it is taken up for final disposal.

3. This petition is filed by the petitioners-accused Nos. 1 to 5 under Section 482 of Cr.P.C. requesting the Court to quash the order dated 07.02.2014 passed by II-JMFC, Sirsi in CC. No. 56/2008 and also to quash the entire proceedings pending in C.C. No. 56/2008.

4. Brief facts of the case as narrated in this petition that the marriage between the petitioner No. 1 and the complainant-Reshma was solemnized on 24.05.2006 at Vasavi Kalayan Mandir, Gandhi Bazar, Shimoga, as per Hindu rituals. Some days after the marriage, the petitioner and respondent lead happy married life.

Later, both of them could not live together, so, both of them filed an application under Section 13(B) of Hindu Marriage Act praying for divorce by mutual consent. It was specifically agreed between the parties that the criminal complaint would be withdrawn. It is further pleaded in the petition that the order passed in M.C. No. 10/2007 dated 17.12.2008 is the divorce decree passed by the said Court is produced as per Annexure-B. Thereafter, Smt. Reshma got married to one Mr. Ramkrishna on 26.12.2010 at Sigandoor Temple-Kanive. However, on 18.02.2011 she breathed her last and the copy of the death extract is produced as at Annexure-C. But the complaint dated 02.10.2007 in Crime No. 71/2007 for the offences punishable under Section 489A, 143, 147, 504, 506, 448 read with Section 149 of IPC and Sections 3 and 4 of Dowry Prohibition Act filed by Reshma/deceased was not withdrawn. Copy of the said complaint, FIR and the charge sheet is produced at Annexure-D. It is further pleaded that, in view of the terms agreed in M.C. 10/2007, petitioners were constrained to file application under Section 239 of Cr.P.C. for discharge. However, the Court below by its order dated 07.02.2014 was pleased to reject the application filed by the petitioners. The petitioners have challenged the initiation of the criminal proceedings and seeking to quash the criminal proceedings, which are now pending in C.C. No. 56/2008 on the file of II-JMFC, Sirsi, by this petition.

5. Heard the arguments of the learned counsel appearing for the petitioners-accused Nos. 1 to 5 and also the learned HCGP appearing for the respondent No. 1-State.

6. Learned counsel for the petitioners submitted that during the lifetime of the complainant-Reshma the M.C. case was filed between herself and petitioner No. 1 herein under Section 13(B) seeking the decree of divorce by mutual consent. By way of pleadings in the said consent divorce petition, the couples agreed to give up all their contentions and even it was agreed by Reshma that she will withdraw the criminal complaint, which she has filed and in that regard Reshma also filed the affidavit in the said matrimonial case, wherein she has stated that she is going to withdraw the criminal case and the said affidavit was taken into consideration by the said Court before passing the consent divorce decree of Reshma and petitioner No. 1 herein.

Learned counsel has also submitted that after the divorce decree passed by the said Court, Reshma got married to another person by name Ramachandra Rao (at this stage, learned counsel has submitted that by mistake in the present petition name of the said person is wrongly mentioned as Ramkrishna). He has submitted that thereafter, Reshma expired and he has produced the death extract of said Reshma, wherein name of the husband is shown as Ramachandra Rao and the date of death is 18.02.2011. Hence, when the matter has been compromised between the couples to lead both of them their peaceful life, learned Magistrate ought to have allowed their application seeking discharge. Hence, he has submitted that in view of these materials on record, the criminal proceedings may not be proceeded with and they are to be quashed.

7. Learned HCGP representing respondent No. 1 has submitted that so far as the rejection of the application seeking discharge of the petitioners from the proceedings, the learned Trial Judge has assigned cogent reasons and the said rejection order is in accordance with law and there is no illegality committed, but so far as prayer of the petitioners with regard to the quashing of criminal proceedings is concerned, he has submitted that the records show that there was a divorce decree between the couples i.e., Reshma and petitioner No. 1. In view of this material learned HCGP has submitted that so far as quashing the entire criminal proceedings, which are pending in C.C. No. 56/2008 is concerned, he will leave the matter to the Court to pass the appropriate orders.

8. I have perused the materials placed on record, so also consent divorce decree passed dissolving the marriage of Reshma with petitioner No. 1. The contents of the said order clearly shows that parties have settled the matter between themselves amicably and they wanted to get their marriage dissolved at the hands of the said Court, even, it was mentioned in the said decree that amount was also settled for a sum of Rs. 40,000/- to be payable by petitioner No. 1 to Reshma by way of full and final settlement of the past, present as well as future and accordingly, the amount is also paid to said Reshma, which is seen from the orders passed. In the said proceedings Reshma also filed the affidavit, wherein she has stated that it is not necessary for the Police to take into consideration her complaint.

9. Considering these materials on record, they show that parties have amicably settled the matter between themselves to lead peaceful life. The disputes between the parties are mainly concerned with petitioners herein and deceased Reshma, when the parties have agreed to settle the disputes between themselves and lead peaceful life of their own, it is necessary to quash the proceedings and as Reshma is also expired now, the death extract is also produced in this petition. After the dissolution decree passed dissolving her marriage with petitioner No. 1, Reshma got married to another person namely Ramachandra Rao (Not Ramakrishna, which is wrongly pleaded in the petition) and her death certificate is also produced and the date of death is 18.02.2011 and the trial Court while passing its order on application seeking discharge, has also taken note of the same.

10. In view of all these materials, no purpose would be served by continuing the criminal proceedings against the petitioners. Hence, petition is allowed. The criminal proceedings initiated against the petitioners in Crime No. 71/2007 of New Market Sirsi Police Station, Uttara Kannada and now pending in CC. No. 56/2008 on the file of II-JMFC Court, Sirsi, are hereby quashed and consequently, the order passed by the said Court on the application seeking discharge is also automatically set-aside.