
(2006) 09 JH CK 0021
In the Jharkhand High Court

Renu Jalan and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 07-09-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A

Citation : (2007) 1 JCR 472

Hon'ble Judges : D.K. Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.K. Sinha, J.—The petitioners herein have preferred this petition u/s 482 of the Code of Criminal Procedure for quashing the entire criminal proceeding in complaint Case No. 580 of 2004 corresponding to T.R. No. 1166 of 2005 and also the order impugned dated 6.8.2005 passed by the Sub-Divisional Judicial Magistrate, Ranchi. whereby and whereunder summons were directed to be issued to the petitioners finding a prima facie case for the offence u/s 498-A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act as against them.

2. The brief fact of the prosecution case is that the complainant/opposite party No. 2. Ruchi Jalan, was married to the petitioner No. 3, Sanjay Jalan in December, 1995 at Bombay. On the eve of her marriage, Jewellaries worth Rs. 21,69,900/-were given to the complainant to which she upon arrival at her matrimonial home made over it to the petitioners No. 1 and 2 for its safe custody. The complainant delivered a female child on 31st July 1997 but the petitioners were desiring birth of a male child. The complainant alleged that the husband petitioner No. 3 from his first nuptial night/honeymoon, took sadistic pleasure in hurting the complainant and he always proposed for unnatural sex. It was alleged that the petitioner No. 3 had been assaulting the complainant on one

slightly pretext of mother and was only pacified by expensive gifts from the complainant's father. The petitioner had been abusing her as well as members of her parental family continuously as a result of which she got frustrated and being fed up with the behaviour of the petitioner she tried to commit suicide on 6.9.2001. The petitioner No. 3 started demanding a sum of Rs. 3,00,000/- to be brought from her father. The complaint contains, however, for the pleasure and proper keeping of his daughter, the father of the complainant obliged him by transferring money to their company under the name and style of Ruchi Dye Chem Ltd. through Global Bank on 8.11.2001. The complainant/opposite party No. 2 after finding the attitude of the petitioners unbearable and hostile and that she and her children were not safe, she returned back to Ranchi and had to seek medical assistance as she suffered injuries on her arms, back, palms and forehead while she was in Mumbai. She tried to maintain her relationship with the petitioner and asked for her jewellery in order to sustain her children and to look after education and her requirements. In this connection when she visited Mumbai, it was told that all her jewellery were sold and as such she would not get a farthing. The petitioners asked her never to come again.

3. The learned Counsel submitted that before filing of the present complaint case the petitioner No. 3, Sanjay Jalan had filed a suit for divorce under the relevant section of Hindu Marriage Act 1955 on 17.1.2005 which was numbered as Petition No. A-112 of 2004 in the 3rd Family Court at Bandra, Mumbai and by decree of divorce dated 5.12.2005 the marriage between the petitioner No. 3 and opposite party No. 2 was dissolved by the mutual consent with stipulation that opposite party No. 2/wife will withdraw the criminal Complaint Case No. 580 of 2004 initiated for the offence u/s 498-A, Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act, pending in the Court of Sub-Divisional Judicial Magistrate. Ranchi and will do the needful for compounding/withdrawing of the said complaint with other stipulation. Pursuant to that a petition was filed on behalf of the opposite party No. 2 before the SDJM, Ranchi with the submission that she no longer wanted to proceed with the case and did not wish to prosecute the petitioners in view of the compromise.

4. The opposite party No. 2, Ruchi Jalan filed a counter affidavit in the present petitioner with vakcdatnama duly executed in favour of Mr. A.K. Das, Advocate stating therein that she has obtained divorce from her husband with mutual consent by a decree of divorce and both have amicably parted their ways and there was no demand of either side as her goods, articles and gifts were returned. It has been submitted therein, that in the interest of Justice and in the light of submission made in the counter affidavit, it would be expedient to quash the instant complaint being Complainant Case No. 580 of 2004. The counter affidavit has been signed and affidavited by the opposite party No. 2, Ruchi Jalan duly identified by Krishna Yadav, Advocate's Clerk of R. Ranjan.

5. Having regard to the facts and circumstances of the case, I find that the complainant/opposite party No. 2 has obtained a decree of divorce with mutual

consent under the terms and agreement stipulated in the decree of divorce (Annexure-2) by a Family Court. The complainant/opposite party No. 2 preferred a petition in the Court of SDJM, Ranchi, praying that she no longer wants to proceed with the case and does not want to prosecute the accused persons in view of the compromise between with the prayer to drop the case, Xerox Copy of the petition dated 17.6.2006 has been annexed.

6. The Supreme Court of India in B.S. Joshi and Others Vs. State of Haryana and Another, . ; 2003 (2) East CrC 220 (SC) observed in such a situation:

On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members. and as a result thereof she has again started living with her husband with whom she earlier had difference or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventually, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound noncompoundable offence? The answer clearly has to be in the negative.

7. Taking into consideration the special feature in the instant case that the opposite party No. 2 entered into divorce with her mutual consent on the terms stipulated in the decree of the divorce and upon her full satisfaction, I find it expedient and in the interest of justice that no useful purpose is likely to be served if the criminal prosecution against the petitioners is allowed to continue.

8. In the result, criminal prosecution of the petitioners (Renu Jalan, Murari jalan and Sanjay Jalan) in Complaint Case No. 580 of 2004 corresponding to T.R. No. 1166 of 2005 pending in the Court of the Sub-Divisional Judicial Magistrate, Ranchi including the order dated 6.8.2005 is quashed in exercise of jurisdiction u/s 482 of the Code of Criminal Procedure. With the above observation this petition is allowed. Petition allowed.