
(2015) 08 SC CK 0157

In the Supreme Court Of India

Case No : Criminal Appeal No. 1256 of 2012

Saloni Rupam Bhartiya

APPELLANT

Vs

Rupam Prahlad Bhartiya and others

RESPONDENT

Date of Decision : 11-08-2015

Acts Referred:

Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 498A

Citation : (2016) 1 CCR 158 : (2015) 4 RCR(Criminal) 172

Hon'ble Judges : T.S. Thakur, A.K. Goel and R. Banumathi, JJ.

Bench : Full Bench

Advocate : Niraj Sharma, Advocate, for the Appellant; Aniruddha P. Mayee, Shuvodeep Roy, Nishant R.K., Maheen Pradhan, Niraj Gupta and Faraz Khan, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. This appeal arises out of a judgment and order passed by the High Court of Bombay whereby the Criminal Revision Application No. 81 of 2011 filed by Respondent No. 1-husband was partly allowed and while upholding his conviction Under Section 498A of the Indian Penal Code, the sentence of imprisonment for a period of one year reduced to imprisonment till the rising of the Court besides a fine of Rs. 1,00,000/- (Rupees One Lakh only). In default of payment of fine the Respondent No. 1 was directed to undergo imprisonment for a period of six months. The High Court has also directed that out of the amount of fine deposited, the Appellant-wife shall be paid a sum of Rs. 90,000/- by way of compensation. When the matter came up for hearing on 13.11.2014 and was argued at some length, learned Counsel for the parties suggested that given an opportunity all outstanding issues between the parties could be amicably settled. It was submitted by learned Counsel for the Appellant-wife that a petition for dissolution of marriage was pending before the Family Court at Indore, which the Respondent-husband herein appeared to be opposing. It was further submitted that the couple had been blessed with a daughter aged about 12 years old, who

is currently studying in a school at Indore. Our attention was also drawn to the fact that the court seized of the divorce petition had awarded maintenance in favour of the Appellant-wife and the daughter at the rate of Rs. 15,000/- per month, which the Respondent-husband had been paying no matter a certain amount towards arrears of maintenance was outstanding. At the Bar it was suggested by learned Counsel for the parties that the parties had broadly agreed to a settlement on payment of a lump sum amount of Rs. 50,00,000/- (Rupees Fifty Lakh only) in favour of Appellant-wife excluding the amount in arrears towards maintenance already awarded and paid. The amount was to be in full and final settlement of Appellant-wife's claim for her maintenance as also for the minor daughter of the couple, her education and marriage, right to shelter etc. It was submitted that the parties were also agreeable to filing a joint petition Under Section 13B of the Hindu Marriage Act, 1955 for dissolution of marriage by mutual consent before a court of competent jurisdiction at Indore in which event the couple could part for good, on a satisfactory note, without anything to do with each other in future.

2. The matter was accordingly adjourned to enable the parties to explore the possibility of an amicable settlement and to report the same to this Court. When the matter came up again on 20.11.2014, a joint memorandum of understanding dated 19.11.2014 detailing all the terms and conditions subject to which the parties had agreed to resolve the matter was filed before us. The joint memorandum of understanding inter alia provided for filing a petition Under Section 13B of the Hindu Marriage Act, 1955 for divorce by mutual consent on payment of a sum of Rs. 50,00,000/- towards permanent alimony including maintenance, shelter, education, marriage of the minor daughter, out of which an amount of Rs. 25,00,000/- was to be paid by way of a demand draft in the name of the Appellant-wife at the time of filing of the petition Under Section 13B for divorce by mutual consent while the remaining amount of Rs. 25,00,000/- was to be paid at the time of signing and filing the petition for grant of second motion. The joint memorandum of understanding also stipulated that in the light of the amicable settlement, the conviction of the Respondent-husband, as recorded by the courts below, could be set aside. The matter was, on that basis, adjourned till the month of July, 2015 to enable the parties to take steps in aid of the settlement.

3. When the matter again came up before us today learned Counsel for the Appellant-wife drew our attention to a decree passed by the Family Court at Indore in a joint petition filed Under Section 13B of the Hindu Marriage Act, dissolving the marriage between the parties by mutual consent. A copy of the decree passed by the Family Court, Indore has been produced in the Court, which is taken on record. Learned Counsel for the Appellant-wife submitted that the Appellant has already received the sum of Rs. 50,00,000/-, in terms of the joint memorandum of understanding and the terms and conditions already settled between the parties and that the said amount has been accepted by the Appellant-wife in full and final settlement of her claims towards her maintenance

and maintenance of the daughter as also right to shelter, education and marriage expenses of minor daughter, whose custody shall continue with her. It was submitted by learned Counsel for the parties that in the light of the above subsequent developments especially the fact that the marriage between the parties itself stands dissolved by a decree passed by a competent court, nothing really remained between the parties to be addressed and that the conviction of the Respondent-husband Under Section 498A of the Indian Penal Code could be set aside. We see no reason to decline that prayer. In the circumstances, therefore, and in the light of the fact that the parties have successfully negotiated an amicable settlement sinking and resolving all their differences and disputes and finding a lasting solution on all the outstanding issues between themselves, we see no reason why the conviction recorded by the courts below and the sentence of imprisonment till the rising of the Court, which the Respondent has already undergone should continue to blemish the Respondent-husband. We accordingly set aside the judgment and order of conviction of the Respondent Under Section 498A of the Indian Penal Code.

4. The appeal is disposed of with the above observation. Pending application(s), if any, shall also stand(s) disposed of.