
(2010) 07 AHC CK 0302

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 8814 of 2003

Shailesh Tewari and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 149, 323, 406, 498A, 504

Citation : (2010) 07 AHC CK 0302

Hon'ble Judges : Ashwani Kumar Singh, J

Final Decision : Allowed

Judgement

Ashwani Kumar Singh, J.—Heard learned counsel for the applicants and Sri Ram Manohar Kashyap holding brief on behalf of Sri A.K.Goel, learned counsel for opposite party No. 4.

2. This application under Section 482 Cr.P.C. has been preferred for quashing the proceedings of complaint case No. 2555 of 2002 under Section 406 I.P.C. PS. Sadar Bazar, District Agra (Smt. Geeta v. Shailesh Tewari) pending before the Judicial Magistrate (I), Agra.

3. Submission of learned counsel for the applicants is that divorce has already taken place between the parties vide order dated 24.4.2005, a copy of which has been annexed as Annexure SA3 to CrI. Misc. Application No. 143363 of 2005. It is also contended that it was mutually resolved by the parties that opposite party No. 4 shall not proceed with the proceedings of present case under Section 406 I.P.C. It is also submitted that a case under Sections 498A/323/149/504 I.P.C. and 3/4 Dowry Prohibition Act against the accused applicants and others has already been decided by the Court below on 23.4.2005 and the accused applicant and others have been acquitted. Learned counsel for the applicants has relied upon the decision of Hon'ble the supreme Court in Pashaura Singh v. State of Punjab, 2009 (67) ACC 964 (SC).

4. I have considered the submissions made by learned counsel for the applicants and gone through the entire record of the case.

Hon"ble the Supreme Court in Pashaura Singh v. State of Punjab (Supra) has observed that all subsequent criminal proceedings instituted with mala fide intention need to be quashed. In the present case the applicants have already been acquitted in a case under Sections 498A/323/149/504 I.P.C. and 3/4 Dowry Prohibition Act and the present criminal proceedings under Section 406 I.P.C. is nothing but prosecution with mala fide intention, as such, is liable to be quashed.

5. In the facts and circumstance of the case and in light of the submissions made above, the application is liable to be allowed. It is, accordingly, hereby allowed and the proceedings in complaint case No. 2555/2002 (Smt.Geetha v. Shailesh Tewari) under Section 406 I.P.C. P.S. Sadar Bazar, District Agra pending before the Judicial Magistrate(I), Agra is hereby quashed.