
(2010) 01 AHC CK 0294

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6449 of 2009

Shyam Sunder Gupta and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 27-01-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2010) 32 CriminalCC 515

Hon'ble Judges : S.C. Agarwal, J; R.K. Agrawal, J

Bench : Division Bench

Advocate : Sanjay Srivastava, for the Appellant; R.K. Mishra, AGA, for the Respondent

Final Decision : Allowed

Judgement

1. The petitioners through the present writ petition have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India praying for a writ, order or direction in the nature of certiorari quashing the impugned FIR dated 05.06.2007 relating to case crime No.41 of 2007 u/s 498-A, 323, 504, 506 IPC and 3/4, D.P.Act, P.S.Armapur, District-Kanpur Nagar.

Heard Sri Sanjay Srivastava, teamed counsel for the petitioners and learned AGA for respondent Nos. 1 and 2. Learned counsel for respondent No.3 - the complainant did not appear when the case was taken up in the revised list.

This is a matrimonial dispute. The first informant Anita Gupta, respondent No.3 is the wife of petitioner No.1 Shyam Sunder Gupta. Petitioners No.2 and 3 are the real brothers and petitioners No.4 and 5 are the parents of petitioner No.1.

2. FIR was lodged on the orders passed by the Metropolitan Magistrate-IV, Kanpur Nagar on the application u/s 156(3) C.P.C. moved by respondent No.3. It was alleged that respondent No.3 was married with petitioner No. 1 on 14.05.2003. The petitioners were not happy with the dowry given and started

harassing respondent No.3 on account of demand of Hero Honda motor-cycle and 25000/- in cash as dowry. Demand for dowry was made on 20.04.2007 at 12 Noon. When the demand was not fulfilled, the petitioners beat the respondent No.3 but she somehow managed to escape and got herself medically examined on 20.04.2007 at Ursala Hospital, Kanpur Nagar.

On 10.04.2009, at the time of admission of this writ petition, a Division Bench consisting of Hon''ble Imtiyaz Murtaza, J. and Hon''ble S.C.Nigam, J. held that it was one of those case in which reconciliation should be tried between the disputing parties. The matter was referred to Mediation Centre of this Court.

Report of Mediation Centre is on record. Mediation sessions took place on 10.06.2009 and 03.07.2009. On 03.07.2009, parties came to terms and settlement agreement was executed, which is also on record.

3. As per the terms and the settlement agreement, the petitioner No.1 and respondent No.3 decided to obtain a decree for mutual divorce on the condition that a sum of Rs.75000/- is paid by the petitioners to respondent No.3 by bank draft within a period of three months before the Court where the proceedings of aforesaid case crime No.41 of 2007 are pending. It was further agreed that all civil and criminal cases pending between the parties shall be treated to be withdrawn.

Learned counsel for the petitioners submitted that in pursuance of the compromise/settlement agreement dated 03.07.2009 the petitioners have deposited a sum of Rs.75000/- in the Court of ACMM-II Kanpur Nagar in crime No.41 of 2007 and case No.1831 of 2009, P.S. Armapur, District-Kanpur Nagar through bank draft. A certified copy of application dated 30.09.2009 filed by petitioner No.1 in the court of ACMM-II, Kanpur Nagar has been filed to show that bank draft for Rs.75000/- was deposited in court by petitioner No.1 within stipulated period.

4. Learned counsel for the petitioners submitted that parties have come to terms and matrimonial dispute has been mutually settled and thus the FIR and all proceedings connected therewith be quashed.

Apex Court in case of Madan Mohan Abbot v. State of Punjab, 2008 ACJ 065 (S.C.) 2008(2) CCC 057 (S.C.) : 2008(2) SCC 464 observed as under:-

We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a pure personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

5. Considering the facts that the subject matter of this FIR, which is a

matrimonial dispute and is of a pure personal nature, is now stands voluntary, mutually and amicably settled between the parties vide compromise deed filed through Mediation Centre of this Court, we see no purpose in continuing the criminal proceedings arising out of FIR in question. The dispute between the parties is of a purely personal nature. After compromise between the parties, keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury for the courts.

We accordingly allow the writ petition and the FIR dated 05.06.2007 relating to case crime No.41 of 2007 u/s 498A, 323, 504, 506 IPC and 3/4, D.P.Act, P.S.Armapur, District-Kanpur Nagar and all proceedings connected therewith are quashed.