

(2008) 05 AHC CK 0026
In the Allahabad High Court
Case No : Criminal M.A. No. 24354 of 2007

Smt. Geeta and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 02-05-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2008) 3 ACR 2359

Hon'ble Judges : Vijay Kumar Verma, J

Bench : Single Bench

Advocate : O.P. Mishra, for the Appellant; V.P. Mishra and A.G.A., for the Respondent

Judgement

Vijay Kumar Verma, J.—By means of this application u/s 482 of the Code of Criminal Procedure (in short the "Cr. P.C."), the applicants Smt. Geeta, Smt. Krishna Devi and Smt. Rekha Solanki have invoked inherent jurisdiction of this Court, praying for quashing of the order dated 21.7.2007 passed by the Addl. Sessions Judge Court No. 10, Ghaziabad in Criminal Revision No. 206 of 2007, Smt. Geeta and Ors. v. State of U.P., and the order dated 27.2.2007, passed by the Judicial Magistrate, Ghaziabad in CrI. Case No. 1923 of 2006, State v. Onkar Singh and Ors. under Sections 323, 506 and 498A of Indian Penal Code (in short the "I.P.C.") and Section 3/4 of Dowry Prohibition Act (in short the "D.P. Act") of P. S. Murad Nagar (Ghaziabad).

2. Shorn of unnecessary details, the facts leading to the filing of the application u/s 482, Cr. P.C., in brief, are that an F.I.R. was lodged by Smt. Manju (opposite party No. 2 herein) against her husband Onkar Singh and his family members including the applicants on 7.11.2005 at P. S. Murad Nagar district Ghaziabad, where a case under Sections 498A, 323, 506, I.P.C. and Section 3/4 of D.P. Act was registered at Crime No. 358/05. Annexure-1 is the copy of that F.I.R. After investigation, charge-sheet was submitted against the accused persons, on which

cognizance was taken by the Magistrate concerned and the accused persons including the applicants were summoned to face the trial in Criminal Case No. 1923 of 2006. After hearing parties counsel, the Judicial Magistrate, Ghaziabad passed an order on 27.2.2007 to frame charge against the accused u/s 498A, 323, 506, I.P.C. and 3/4 of D. P. Act. Consequently, the charge was framed against all the accused persons on 9.4.2007 by the Additional Chief Judicial Magistrate, Court No. 5 Ghaziabad in renumbered Crl. Case No. 467 of 2007. Order dated 27.2.2007 was challenged by the applicants in the Court of Sessions Judge, Ghaziabad by means of Crl. Revision No. 206 of 2007, which has been decided by the Additional Sessions Judge Court No. 10, Ghaziabad vide impugned judgment and order dated 21.7.2007, whereby the revision has been dismissed. Both these orders have been sought to be quashed in this proceedings.

3. I have heard Shri O. P. Mishra, learned Counsel for the applicants, learned A.G.A., for the State and also perused the material on record. None appeared for O.P. No. 2 on the day of hearing, although she had put in appearance through her counsel Sri V. P. Mishra, advocate.

4. At the time of admission of this case, the matter was referred to Allahabad High Court Mediation and Conciliation Centre vide order dated 4.10.2007. With the intervention of the Mediation Centre, the parties have settled their dispute and they filed compromise before the Mediation Centre on 3.2.2008, which is on record. According to the terms of this compromise, Smt. Manju (O.P. No. 2) has agreed to withdraw all the cases filed by her against her husband Onkar Singh and his family members. Criminal Case No. 1923 of 2006 State v. Onkar Singh and Ors., u/s 498A, 323, 506, I.P.C. and 3/4 of D.P. Act also is to be withdrawn in addition to other cases mentioned in compromise (settlement agreement).

5. Drawing my attention towards the compromise filed by the parties before the Allahabad High Court Mediation and Conciliation Centre, it was submitted by the learned Counsel for the applicants that continuance of the proceedings of Criminal Case No. 1923 of 2006 (renumbered as Crl. Case No. 467 of 2007) is not in the interest of justice and hence the entire proceedings of the case including both the impugned orders should be quashed by this Court in its inherent jurisdiction u/s 482 Cr. P.C. For this contention, reliance has been placed on the cases of B.S. Joshi and Others Vs. State of Haryana and Another, and Ausaf Ahmad Abbasi and Ors. v. State of U.P. and Anr. 2006 (30) JIC 135 : 2007 (1) ACR 610.

6. Having given my thoughtful consideration to the submissions made by the learned Counsel for the applicants, I am of the opinion that continuance of criminal proceedings against the applicants are not in the interest of justice, as Smt. Manju (O.P. No. 2) and her husband Onkar Singh have settled their matrimonial dispute due to intervention of the Mediation Centre and they have agreed to live together. All the three applicants are the family members of the husband of Smt. Manju, who have been arrayed as accused in the F.I.R. lodged

by her at Case Crime No. 358/05 at P. S. Murad Nagar, on the basis of which criminal proceedings in re-numbered Criminal Case No. 467 of 2007, is pending against them. Since the matrimonial dispute has been settled amicably between Smt. Manju and her husband Onkar Singh, hence continuance of the criminal proceedings against the applicants would not be in the interest of justice, as held by the Hon''ble Apex Court in the similar circumstances in the case of B.S. Joshi v. State of Haryana (supra), which has been followed by this Court in the case of Ausaf Ahmad Abbasi v. State of U.P. (supra). Reference in this regard may be made to the case of Ruchi Agarwal v. Amit Kumar Agrawal and Ors. (LI) 2005 ACC 217 , also, in which the Hon''ble Apex Court quashed the proceedings of the criminal case u/s 498A, 323, 506, I.P.C. and 3/4 of D.P. Act, due to the compromise entered into between the parties in the proceedings u/s 125, Cr. P.C. Following this case, this Court in the case of Shikha Singh and Ors. v. State of U.P. and Anr.(LIX) 2007 ACC 123, quashed the proceedings of criminal case due to the compromise entered into between the parties. Similarly in the case of Dinesh Kumar Jain and Ors. v. State of U.P. and Ors. (LIX) 2007ACC 148, this Court has quashed the proceedings of the criminal case u/s 498A, 323, 504, 506, I.P.C. and 3/4 of D. P. Act, due to the compromise entered into between the parties in the proceedings u/s 125, Cr. P.C. Reliance in this case has been placed on B. S. Joshi v. State of Haryana (supra).

7. In view of the above discussion, I am of the considered opinion that it would be an abuse of the process of the Court, if the criminal proceedings against the applicants and other accused in renumbered Criminal Case No. 467 of 2007 (old No. 1923 of 2006), is allowed to continue. Therefore, to do the complete justice, the proceedings of the case may be quashed by this Court in its inherent jurisdiction u/s 482, Cr. P.C.

8. Consequently, the application u/s 482, Cr. P.C. is allowed. The proceedings of Criminal Case No. 467 of 2007 (old No. 1923 of 2006), State v. Onkar Singh and Ors., u/s 498A, 323, 506, I.P.C. and Section 3/4 of D. P. Act, arising out of case Crime No. 385/05 of P. S. Murad Nagar, district Ghaziabad, pending in the Court of Addl. Chief Judicial Magistrate (Court No. 5) Ghaziabad, are hereby quashed.

The office is directed to send a copy of this order to the trial court concerned for necessary action.