
(2008) 07 AHC CK 0020
In the Allahabad High Court

Smt. Soniya and Others and Rajeev Sachdeva	APPELLANT
Vs	
State of U.P. and Another	RESPONDENT

Date of Decision : 04-07-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2008) 07 AHC CK 0020

Hon'ble Judges : Vijay Kumar Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vijay Kumar Verma, J.—By means of these applications u/s 482 of the code of Criminal Procedure (in short the "Cr.P.C."), the applicants 1. Smt. Soniya, 2. Ashok Kumar Thakuran, 3. Smt. Kailash Sachdeva, 4. Amarnath Sachdeva and 5. Rajeev Sachdeva have invoked inherent jurisdiction of this Court, praying for quashing of the proceedings of Criminal Case Nos. 321 of 2003 (New No. 2177 of 2007) State v. Rajeev Sachdeva and Ors. arising out of Crime No. 607 of 2000 under Sections 498A, 323, 504 of Indian Penal Code (in short the "IPC") and Section 3/4 of Dowry Prohibition Act (in short the "D.P. Act") of P.S. Govind Nagar, Kanpur Nagar, pending in the court of 10th Metropolitan Magistrate Kanpur Nagar.

2. Shorn of unnecessary details, the facts leading to the filing of the applications u/s 482 Cr.P.C., in brief, are that marriage of the applicant Rajeev Sachdeva and O.P. No. 2 Smt. Manisha Sachdeva took place on 29.11.1999. Due to some strained relations between the parties, an FIR was lodged by Smt. Manisha Sachdeva on 15.11.2000 at P.S. Govind Nagar, Kanpur Nagar, where a case u/s 498A, 323, 504 IPC and Section 3/4 D.P. Act was registered at Crime No. 607 of 2000 against the applicants. An application u/s 125 Cr.P.C. for granting maintenance was also filed by O.P. No. 2 Smt. Manisha Shachdeva against the

applicant Rajeev Sachdeva in Family Court Kanpur Nagar. The applicant Rajeev Sachdeva also filed marriage petition No. 323 of 2004 u/s 13 of Hindu Marriage Act for divorce. After investigation of the case of Crime No. 607 of 2000, charge-sheet has been submitted against the applicants, on which cognizance has been taken by the magistrate concerned in criminal case mentioned above. During pendency of the divorce petition, the parties entered into compromise and settled their dispute. In pursuance of the compromise, the divorce petition was decided in the Lok Adalat on 20.04.2008 and decree of divorce has been granted by the Family Court Kanpur-Nagar. Annexure (5) to the accompanying affidavit is the copy of the order dated 20.04.2008 passed by the Family Court Kanpur Nagar in Suit No. 323 of 2004. In terms of the compromise, the applicant Rajeev Sachdeva paid Rs. 3,00,000/- by means of Bank Draft and Rs. 25,000/- have been paid in cash. Annexure (4) is the copy of the compromise, which was filed in the aforesaid divorce petition. It is averred in para 8 of this compromise that criminal case arising out of Crime No. 607 of 2000 of P.S. Govind Nagar shall also be got compromised in the spirit of the present compromise by moving the petition before High Court. Prior to the said compromise, an application u/s 482 Cr.P.C. was moved by Smt. Soniya, Ashok Kumar Thakuran, Smt. Kailash Sachdeva and Amar Nath Sachdeva for quashing the proceedings of Criminal Case No. 321 of 2003 (wrongly mentioned as case No. 32 of 2003). That application has been registered as Crl. Misc. Application No. 10999 of 2007. After passing the decree for divorce as mentioned herein-above, another application u/s 482 Cr.P.C. being Crl. Misc. Application No. 10582 of 2008 has been moved by the applicant Raveev Sachdeva for quashing the proceedings of aforesaid criminal case, new number whereof has been allotted as 2177 of 2007.

3. I have heard arguments of Sri M.L. Maurya, learned Counsel for the applicants, Sri K.N. Shukla learned Counsel for opposite party No. 2 and learned AGA for the State and also perused the record.

4. Placing reliance 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 (All), it was submitted by learned Counsel for the applicants that proceedings of the criminal case arising out of crime No. 607 of 2000 pending against the applicants in the court of 10th Metropolitan Magistrate Kanpur Nagar should be quashed by this Court in its inherent jurisdiction u/s 482 Cr.P.C., as the parties have settled their matrimonial dispute and decree for divorce has been granted and payment of maintenance etc. has also been made to O.P. No. 2.

5. Although the O.P. No. 2 Smt. Manisha Sachdeva had appeared through her counsel Sri K.N. Shukla, but she has not filed any counter-affidavit to controvert the averments made in the affidavit filed in support of the application u/s 482 Cr.P.C., annexing copies of certain papers as annexures.

6. Having given my thoughtful consideration to the submissions made by the learned Counsel for the applicants, I am of the considered opinion that

continuance of the criminal proceedings arising out of crime No. 607 of 2000 pending against the applicants in the court of 10th Metropolitan Magistrate Kanpur Nagar is not in the interest of justice. From the record it appears that during the course of divorce petition No. 323 of 2004, the parties have settled their dispute. In pursuance of the compromise entered into between the parties, a sum of Rs. 3,25,000/- has been paid by the applicant Rajeev Sachdeva to O.P. No. 2 Smt. Manisha Sachdeva. On the basis of the compromise, divorce petition was decided on 20.04.2008 in Lok Adalat and a decree for divorce has been granted by the Family Court Kanpur Nagar. Since the matrimonial dispute has been settled amicably by the parties and Rs. 3,25,000/- has been paid to the O.P. No. 2 Smt. Manisha Sachdeva in terms of the compromise entered into between the parties and decree for divorce has been granted in pursuance of the compromise, hence, as held by the Hon"ble Apex Court in the case of B.S. Joshi v. State of Haryana (supra), which has been followed in the case of Ausaf Ahmad Abbasi v. State of U.P. (supra), continuance of the proceedings of aforesaid criminal case against the applicants is not in the interest of justice.

7. In Ausaf Ahmad Abbasi v. State of U.P. (supra), the proceedings of criminal case u/s 498A, 323, 504, 506 IPC and 3/4 D.P. Act was quashed on the basis of compromise entered into between the parties. Reference in this regard may be made to the case of Ruchi Agarwal v. Amit Kumar Agrawal and Ors. (LVII) 2005 ACC 217 also, in which the Hon"ble Apex Court quashed the proceedings of the criminal case u/s 498A, 323, 506 IPC and 3/4 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) 2007 ACC 148, this Court has quashed the proceedings of the criminal case u/s 498A, 323, 504, 506 IPC and 3/4 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).

8. 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 proceeding arising out of crime No. 607 of 2000 pending against the applicants in the court of 10th Metropolitan Magistrate Kanpur Nagar is allowed to continue. Therefore, to do the complete justice, the proceedings of the criminal case may be quashed by this Court in its inherent jurisdiction u/s 482 Cr.P.C.

9. Consequently, the applications u/s 482 Cr.P.C. in both the cases are allowed. The proceedings of criminal case No. 2177 of 2007 (old No. 321 of 2003) State v. Rajeev Sachdeva and Ors. u/s 498A, 323, 504 I.P.C. and Section 3/4 D.P. Act arising out of crime No. 607 of 2000 of P.S. Govind Nagar, Kanpur Nagar, pending in the court of 10th Metropolitan Magistrate Kanpur Nagar, are hereby quashed.

Let a copy of this order be sent to the 10th Metropolitan Magistrate Kanpur

Nagar for necessary action.