
(2013) 03 MP CK 0089
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 8812/12

Syed Ashfaq Ahmad

APPELLANT

Vs

Dr. Anjum Sultan

RESPONDENT

Date of Decision : 26-03-2013

Acts Referred:

Citation : (2013) 03 MP CK 0089

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

U.C. Maheshwari, J.—All the applicants/accused as well as respondent no. 1/ complainant Dr. Anjum Sultan, are present in person identified by the counsel of the applicants Shri Ashok Lalwani. This case is listed today for admission, but I am apprised by the applicants' counsel that in pendency of this petition, he has filed the application u/s 320 of Cr.P.C. i.e. I.A. No. 15391/12 with the joint signature of the applicants as well as the respondent no. 1 to compound the offence as such the matter has been amicably settled between the parties and in such premises, the respondent no. 1 does not want to prosecute the applicants in the impugned case and in this regard on filing the compromise application before the trial Court the offence of Sections 406 of I.P.C. being compoundable by allowing such application in part, such offence has been subsided by the trial Court, but the offence u/s 498A of I.P.C. and of Section 3 & 4 of Dowry Prohibition Act, being not compoundable under the provision, the aforesaid compromise application was dismissed by the trial Court in the lack of any provision in that regard and the jurisdiction of such Court to consider this compromise. He also referred the certified copy of the order sheet 20.10.2012 passed by the trial Court along with application of compromise dated 15.3.2012 and "Samjhota Patra" signed by the parties. The same are taken on record and in the aforesaid premises, the counsel prayed to quash the impugned criminal case by disposing of this petition finally in the light of the case law B.S. Joshi Vs.

State of Haryana reported in 2003 (1) MPWN 145 (S.C.).

2. Considering the aforesaid prayer with the consent of the parties this matter is taken up for final disposal.

3. The applicants/accused have filed this petition u/s 482 of Cr.P.C., for quashment of the impugned criminal case No. 2389/11, pending in the Court of Judicial Magistrate First Class Bhopal, against the applicants for the offence of Sections 498A and 406/34 of I.P.C. and of Section 3 & 4 of Dowry Prohibition Act. Out of them, the offence of Section 406 read with Section 34 of I.P.C., has been compounded between the parties as stated above.

4. It is undisputed fact in the matter that the respondent no. 1 got married with the applicant no. 1 on dated 25.6.2005, at Bhopal. Subsequent to marriage on account of some matrimonial dispute the impugned First Information Report was lodged by the respondent no. 1 against the applicants on which after holding the investigation they have been charge-sheeted for their prosecution under the abovementioned Sections and such trial is still pending.

5. Before proceedings to decide this petition I want to verify the facts regarding compromise stated in the application from the parties present.

6. In this regard on asking the respondent no. 1 Dr. Anjum Sultan, she categorically stated that subsequent to lodging the aforesaid FIR and after filing the charge-sheet all the disputes between her and the applicant no. 1 Syed Ashfaq Ahmad along with his family members have been settled amicably and she has got each and every goods and sum in accordance with shariat, rules and regulations of her personal law and in such premises, she does not want to prosecute any of the applicants in the present matter. She also stated that she has been divorced the applicant no. 1 on dated 17.9.2012 at Bhopal and in such premises, she prayed to allow the compromise application and quash the impugned FIR and it's investigation along with the charge-sheet and the trial.

7. On the other hand on asking the applicant no. 1 in this regard, he categorically stated that he has given the divorce to the respondent no. 1 on the aforesaid date as stated by her. He further stated that every thing has been settled between him and the respondent no. 1 according to shariat. He has also given all the goods, articles and sum to her and he did not have any objection if the impugned criminal case is subsided and quashed. On asking the other applicants they have categorically prayed to quash the impugned FIR, charge-sheet along with it's trial as prayed in the petition.

8. In view of the aforesaid verification, the alleged compromise appears to be bonafide, genuine so also without any undue influence and coercion from any source. In such a situation, the Court has to pass the appropriate order in the light of the decision of the apex Court in the matter of B.S. Joshi (supra) so the applicant no. 1 and respondent no. 1 may move their future life according to their choice and way.

9. In view of the aforesaid case of the apex Court, this Court has a authority u/s 482 of Cr.P.C. to pass the order for quashment of the FIR and proceedings in the welfare of the parties even if the aforesaid offence is not made compoundable u/s 320 of Cr.P.C.

10. In view of the aforesaid compromise so also taking into consideration that the offence of Section 406 of I.P.C. has already been subsided by the trial Court, in the available scenario to resolve all the disputes between the parties and facilitate to applicant no. 1 and respondent no. 1 to move their future life according to their way, wish and choice, I deem fit to quash the impugned FIR Crime No. 3/11 registered at Police Station Mahila Thana Bhopal, along with it's investigation, charge-sheet and the pending trial in the abovementioned Court and the same is ordered.

11. Accordingly, this petition is allowed and the impugned charge-sheet till the extent of prosecution of the applicants for the offence of Section 498A read with Section 34 of I.P.C. and of Section 3 and 4 of Dowry Prohibition Act, are hereby quashed.

12. The petition is allowed as indicated above.

13. Copy of this order be sent to the trial Court. C.C. as per rules.