

(2006) 05 OHC CK 0049
In the Orissa High Court
Case No : CRLMC No. 1 of 2006

Tej Kishore Srivastav and Others

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 17-05-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 4
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2007) CLT 18 (Suppl CrI) : (2006) 2 DMC 619 : (2007) OLR 18 (Suppl CrI) : (2006) 2 OLR 181

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : G. Mukherjee, for the Appellant; R. Agarwal and D. Jena, for the Respondent

Judgement

A.S. Naidu, J.—The facts leading to the present case had a romantic beginning but a tragic end. Petitioner No. 1 and opposite party No. 2 were students of the same educational institution. They fell in love at a very tender age and as love has no barriers, in spite of stiff opposition from the family members they got married. The initial hurdles created by the orthodox families were successfully fought out by both of them. They led a blissful conjugal life and were blessed with a son. But then they became victims of the wrath of their elders. Opposite party No. 2 wife, it is alleged, was also subjected to un-surmountable hardship and torture. Unable to bear the agony she left her matrimonial house along with her son and took shelter with her grand parents. Criminal cases were initiated among the parties interse. On the basis of an FIR filed by opposite party No. 2 alleging commission of offences under Sections 498-A/34 IPC and Section 4 of Dowry Prohibition Act, G.R. Case No. 673 of 2001 was registered against the husband and in-laws in the Court of the SDJM, Panposh, Rourkela. Thereafter both petitioner No. 1 and opposite party No. 2 decided to dissolve the marriage

and to get rid of the litigations and accordingly filed a petition u/s 13-B of the Hindu Marriage Act which was registered as Civil Proceeding No. 147 of 2005 in the Court of the Judge, Family Court at Rourkela.

2. Para-11 of the said petition, a copy of which has been filed before this Court, is quoted below:

That, both the petitioners in presence of their family members, amicably settled their disputes to have their marriage dissolved in pursuance to said amicable settlement, petitioner No. 1 agrees to pay Rs. 1,50,000.00 only to petitioner No. 2 towards permanent alimony for petitioner No. 2 and her child Vini. Both are agreed for remaining of the child with petitioner No. 2 under her care and custody till attaining majority. It is further agreed by them that petitioner No. 1 will pay the said amount to his wife on the date of hearing of this case and petitioner No. 2 will not claim any assets, estates, or movable or immovable properties in future against petitioner No. 1 in own need nor for her child. Petitioner No. 2 is also agreed that she will disposed for settlement in G.R. Case No. 675/-01 in the Court for the purpose of withdrawal of the said criminal case.

3. On the basis of the said settlement the present CRLMC has been filed u/s 482 CrPC with a prayer to quash the proceedings of G.R. Case No. 675 of 2001 which is now pending before the JMFC, Rourkela against the husband and his family members. Petitioner No. 2-wife*has entered appearance in this case through her counsel and has also filed an affidavit inter alia stating that through intervention of the family members and well-wishers the dispute among her and her husband and in-laws having been amicably settled and in consonance with the said settlement a sum of Rs. 1,50,000.00 has been agreed to be paid to her towards her permanent alimony. The parties also decided to withdraw all the cases initiated by them. In consonance with the terms of the compromise a joint petition was filed by the parties before the JMFC, Rourkela for dropping the said G.R. Case, but then as the JMFC rejected the prayer and so also the Addl. Sessions Judge, Rourkela in revision arising out of the order of the JMFC, the present CRLMC has been filed and that she has no objection if the proceedings of aforesaid G.R. Case are quashed.

4. In course of hearing this Court found that petitioner No. 1 and opposite party No. 2 were quite young in age and directed both of them to appear before this Court in person. In consonance with the said direction both of them have appeared in Court today. This Court tried to persuade them to reconcile their differences and not to dissolve the matrimonial tie. But then it appears that the initial love among the parties has turned to bitterness and they are determined to dissolve the marriage. This Court is satisfied that there has been an irreparable break down of their marriage. Opposite party No. 2 also candidly admitted before this Court that she is tired of fighting out the litigations which are continuing for the last five years and that if the terms of the mutual agreement are complied with she has no objection if the proceedings of the G.R. Case are quashed. Similarly petitioner No. 1 also expressed that he is ready and

willing to fulfil the terms and conditions of the agreement and would pay a sum of Rs. 1,50,000.00 as agreed to within ten days.

5. In view of the fact that the informant opposite party No. 2 has lost her interest in prosecution of her husband and in-laws in the aforesaid G.R. Case, in all likelihood the same case would end in acquittal. That apart, the solemn duty of the Court is not to permit unnecessary litigations to linger, but to aim at maintaining peace and tranquillity among the parties if the offences alleged to have been committed do not affect public policy and law and order. In the present case the offences alleged were under Sections 498-A/34 IPC and Section 4 of D.P. Act. The parties having mutually agreed not to fight out the aforesaid G.R. Case, this Court feels that further continuance of the said case, in the aforesaid scenario, would be an abuse of the process of Court.

6. Accordingly this Court quashes the proceedings of G.R. Case No. 675 of 2001 with direction to petitioner No. 1 to pay a sum of Rs. 1,50,000.00 as agreed to by him in the shape of demand draft to opposite party No. 2 wife within three weeks hence. The said demand draft shall be handed over to the learned counsel for opposite party No. 2 before the Court below as undertaken by petitioner No. 1 in presence of Mr. Mukherjee, learned counsel appearing for the petitioners. I further direct that if petitioner No. 1 fails to pay the amount within the time stipulated above, it would amount to flouting the orders of this Court and petitioner No. 1 will be liable to be proceeded against under the Contempt of Courts Act besides facing other legal consequences.

The CRLMC is accordingly disposed of.