

(1990) 07 AP CK 0005
In the Andhra Pradesh High Court
Case No : C.R.C. No. 528 of 1989

Thathapadi Venkatalakshmi

APPELLANT

Vs

State of Andhra Pradesh and Another

RESPONDENT

Date of Decision : 27-07-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 257, 320, 482
Penal Code, 1860 (IPC) — Section 307, 498

Citation : (1991) CriLJ 749 : (1991) 1 DMC 291

Hon'ble Judges : Bhaskara Rao, J

Bench : Single Bench

Advocate : B. Udaya Bhaskar, for the Appellant; Public Prosecutor and P. Bala Rani, for the Respondent

Judgement

1. This revision is directed against the order refusing permission to withdraw the case filed u/S. 498-A IPC by the wife against her husband.
2. The brief facts are : The wife-petitioner, herein filed a report before the police alleging harassment and cruelty against her husband. Thereupon the police filed the charge sheet and the Magistrate took cognizance of the same u/S. 498-A IPC. However, pursuant to an amicable settlement between the spouses to lead a harmonious matrimonial life, the wife filed a petition before the Magistrate to permit her to withdraw the case. The Court below on the ground that the offence is not compoundable dismissed the said petition. Hence this revision.
3. The learned counsel for the wife submitted that though it is not a case for being compounded u/S. 320 Cr.P.C., the Court below could permit, withdrawal of the complaint under the provisions of S. 257 Cr.P.C. It is to be noted that it is the charge-sheet filed by the police that formed basis for the Court to take cognizance of the offence. The wife filed the report before the police and, not before the Court. She, therefore, cannot be permitted to withdraw the charge-sheet filed by the police.

4 However, turning to the submission, alternatively put forth, by learned counsel that though the offence covered by S. 498-A IPC is not one listed u/S. 320 Cr.P.C. for being compounded, still keeping in view the changed circumstances and the settlement arrived at between the spouses to lead an amicable matrimonial life with harmony the offence could be permitted to be compounded, by exercising powers u/S. 482 Cr.P.C. more particularly when the intent of law is to facilitate a peaceful living; it is to be seen that there is substantial force in this. In this behalf, the learned counsel took me through two decisions, one of the Supreme Court and the other of the Karnataka High Court. In AIR 1988 2111 (SC) the Supreme Court was concerned with an offence u/S. 307 IPC, which is not compoundable u/S. 320 Cr.P.C. The Supreme Court treating it as a special case directed the trial Court to accord permission to compound the offence after being satisfied of the compromise. Similarly in *State of Karnataka v. Basavaraju*, (1990 (2) Crime page 196) the permission to compound accorded by the Trial Court, though the offence is not one so permissible u/S. 320 Cr.P.C., is not interfered with by observing that keeping in view the welfare of the parties in the matrimonial case and to see that the feelings of the parties are not strained for the rest of their life - the larger interests of the couple - the trial Court had rightly granted the permission.

5. As noted, the offence involved in the present revision is one u/S. 498-A IPC. This section as introduced by Act 46 of 1983 on account of the increasing number of dowry deaths and cases of cruelty meted out to the married women at the hands of their husbands and in laws. Though in the instant case, the wife made a report to the police regarding the cruelty meted out to her at the hands of her husband, the parties had some reconciliation, there were talks for settlement, and there was agreement between the spouses to lead a harmonious matrimonial life. Since the basic object of any matrimonial law is to facilitate a happy and harmonious matrimonial life between the spouses though under different circumstances they approached the Court the permission sought for to compound the offence u/S. 498-A IPC pursuant upon the settlement and understanding between the spouses to amicably live together with, harmony can be accorded by this Court u/S. 482 Cr.P.C. Keeping, therefore, in view the larger interests of the parties and to secure the ends of justice the Court below is directed by exercising powers u/S. 482 Cr.P.C. to accord permission to compound the offence after examining the parties in Court and after satisfying about the voluntary nature of the settlement and the consequent filing of the Petition in question for purposes of compounding the offence.

6. The revision is accordingly allowed with the direction noted supra.

7. Revision allowed.