

Hemraj Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Feb-28-2005

Reported in : II(2005)DMC462; 2005(2)MPHT196; 2005(2)MPLJ502

Judge : U.C. Maheshwari, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 320, 320 (2) and 482;
Indian Penal Code (IPC) - Sections 323 and 498A

Appeal No. : Criminal Revision No. 968/2002

Appellant : Hemraj

Respondent : State of M.P.

Advocate for Def. : J.K. Jain, Govt. Adv.

Advocate for Pet/Ap. : Party-in-Person and ;A.D. Mishra, Adv.

Judgement :

ORDER

U.C. Maheshwari, J.

1. Smt. Kamalti Bai w/o Hemraj Mehra R/o Bhuyari, at present R/o Multai, District Betul is present in person. They are identified by the Counsel of the applicant.

2. It is apparent from the judgment of the Courts below that the present applicant was found guilty and convicted under Sections 323 and 498A of Indian Penal Code and awarded sentence three months' R.I. on first count while one year R.I. with fine of Rs. 100/- on second count. It is also not disputed that this prosecution was initiated at the instance of wife of the applicant (Smt. Kamalti Bai), who is present before this Court.

3. I.A. No. 1833/2004, this is a joint application filed under Section 320(2) of Criminal Procedure Code by the applicant and complainant alongwith their affidavits.

4. After perusing the averments made in this application the same are verified from the parties and as per their statements they are residing together since last two years and enjoying married life happily. It appears that compromise is bonafide and genuine one and the parties have entered into the compromise voluntarily.

5. Although, as per Section 320 of Criminal Procedure Code the above said offence is not compoundable even with the permission of the Court but if the matrimonial dispute in between the parties has already been resolved out of the Court and an application for disposing of the matter is submitted before the Court then the life of a married person should be protected and they should not be subjected to a criminal litigation as such compromise should be recognized by adopting the liberal approach and if it requires some consideration by invoking inherent powers vested to this Court under Section 482 of Criminal Procedure Code then it should be invoked in the interest of justice. My aforesaid view is fully based on a decision of the Apex Court dated 13-3-2003 in the matter of B.S. Joshi and Ors. v. State of Haryana and Anr., (2003) 4 SCC 675, in which held as under :--

'14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife or coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against

the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.'

At the subsequent stage this Court has also taken the same view in the matter of Kamlakar Mahadev Rao Patil and Anr. v. State of M.P. [2005 (1) MPLJ 177], in which held as under :--

'5. Explaining the facts a joint petition (D-1) under Section 320(2) Criminal Procedure Code was filed by the petitioners. A compromise (D-2) was enclosed. Since the application aforesaid was rejected vide order dated 15-9-2003 petition jointly have come up with petition under Section 482 of Criminal Procedure Code. Due to complete normalization of lives of parties petitioner have compromise. The Court below ought not to have passed a mechanical order rejecting the application on sole ground that offence under Section 498A of Indian Penal Code is not compoundable. With reference to B.S. Joshi and Ors. v. State of Haryana (supra). The joint petition under Section 482 filed by the petitioner K.M. Patil and Mrs. Meera Patil stands allowed. Setting aside the order dated 15-9-2003 passed by 3rd A.S.J., Raisen, Cr. Appeal No. 110/2001 stands allowed.

6. Consequently, the judgment dated 5-12-2001 passed by A.C.J.M., Bareilly in Criminal Case No. 287/96 recording conviction under Section 498A of Indian Penal Code sentencing him to undergo R.I. for a period of one year and to pay fine Rs. 3000/-in default to suffer simple imprisonment for a period of three months being set aside, further proceedings are quashed. The amount of fine if deposited in Cr. Case No. 287/97 shall be refunded to the petitioner K.M. Patil.'

6. In view of the aforesaid, by invoking inherent powers under Section 482 of Criminal Procedure Code I allow the compromise of the parties and quash the

entire proceedings of this revision petition as well as proceedings of Courts below. Consequently, applicant is acquitted and it is directed that if any fine amount is deposited by the applicant the same shall be refunded to the applicant Hemraj.

7. This revision petition is disposed of accordingly.

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