

Basanta Samal and anr. Vs. State of Orissa and ors.

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Court : Orissa

Decided On : Jan-24-2005

Reported in : 99(2005)CLT447; II(2005)DMC105; 2005(I)OLR562

Judge : I.M. Quddusi, J.

Acts : Dowry Prohibition Act - Sections 4; Hindu Marriage Act - Sections 13(b); [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482; Indian Penal Code (IPC) - Sections 109, 406, 494 and 498A

Appeal No. : Crl. Misc. Case No. 903 of 2004

Appellant : Basanta Samal and anr.

Respondent : State of Orissa and ors.

Advocate for Def. : Addl. Govt. Adv.

Advocate for Pet/Ap. : S. K. Nayak-2, ;B.K. Rout, ;S.K. Pattnaik and ;C.R. Parida, Adv.

Judgement :

I.M. Quddusi, J.

1. This application under Section 482 of the Code of Criminal procedure has been filed by the petitioners with a prayer to quash the proceeding in G.R. Case No. 5 of

2003 pending before the Court of Learned JMFC, Pattamundai.

2. It appears that on 3.1.2003 an FIR was lodged by Petitioner No. 2 against Petitioner No. 1 which was registered as Rajkanika P.S. Case No. 2 of 2003 for the offences under Sections 498(A), 494, 406, 109 and 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. There are Co-accused as shown in the FIR besides Petitioner No. 1, who are family members of Petitioner No. 1. Consequently, the police has filed the charge-sheet in G.R. Case No. 5 of 2003, which has been registered in the Court of the Learned JMFC, Pattamundai. Thereafter, it appears that a petition for mutual divorce under Section 13(B) of the Hindu Marriage Act was filed before the Judge, Family court, Cuttack by Petitioners No. 1 and 2, who are husband and wife respectively. The Learned Judge, Family Court passed a decree for divorce of the parties by dissolving the marriage solemnized on 6.7.1999 leaving out the statutory period of six months vide judgment and decree dated 22.1.2004. Now both Petitioner Nos. 1 and 2, i.e., the husband and wife are living separately and happily and there remains no dispute between them. Before this Court both have come for quashing of the Criminal Proceedings pending against Petitioner No. 1 and other accused persons.

3. Learned Counsel for the petitioners has placed reliance on a decision of the Supreme Court in the case of B. S. Joshi v. State of Haryana, AIR 2003 SC 1386, wherein the Apex Court has observed thus :

'The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

The observations made by this Court, though in a slightly different contest, in G. V. Rao v. L. H. V. Prasad and Ors., (2003) 3 SCC 693 are very apt for determining the approach required to be kept in view in a matrimonial dispute by the Courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But the little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with

the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the Criminal Case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different Courts.

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

4. The Punjab and Haryana High Court in the case of Ravindra Krishna and Ors. v. Union territory Administration, Chandigarh and Ors., 1997 Cri.L.J. 9 relying upon the decision of Hon'ble Apex Court in the case of Y. Suresh Babu v. State of A.P., J.T. 1987 (2) SC 361 has observed that all matrimonial disputes including those contained in the First Information Report in question have been amicably settled between Petitioner No. 1 and Opp. Party No. 2 after their marriage has been dissolved by a decree of divorce by mutual consent. Once the parties have settled their disputes and differences, it would be an exercise in futility to file the challan in the Court and to proceed with the trial. Further, it has been observed by the High Court that looking to the totality of the facts and circumstances of the case and larger interest of justice it is just and proper, if the parties are not dragged to the Court to face a trial in a Criminal charge which has lost its objective.

5. Since in the instant matter when the wife has also joined with her husband as a petitioner and has prayed to quash the Criminal proceeding against her husband and his relatives, who are shown as Co-accused, I see no reason to reject the said prayer, more so, when this Court feels that in the interest of future of the parties as they have settled their disputes by mutual divorce, they should not be dragged to the Court to face the trial.

6. In view of the above mentioned facts and circumstances, this petition is allowed. The Criminal proceeding i.e., G.R. Case No. 5 of 2003 pending before the Court of Learned JMFC, Pattamundai against Petitioner No. 1 and other Co-accused persons for the offences under Sections 498(A), 494, 406, 109 and 34, IPC read with Section 4 of the Dowry Prohibition Act, is quashed.

The Criminal Misc. Case is disposed of accordingly.

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