

Krishna Kumar Ram and Ors Vs. The State of Jharkhand

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Court : Jharkhand

Decided On : Sep-09-2015

Appellant : Krishna Kumar Ram and Ors

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. Revision No. No.764 of 2015 1. Krishna Kumar Ram 2. Manoj Ram Both sons of Bikrama Ram 3. Bikrama Ram @ Vikrama Ram, So Late Mahadeo Ram, 4. Bigni Devi, W/o Bikrama Ram, All resident of Village - Lamari Khurd, P.O. - Lamari Kala, P.S. Kandi, District - Garhwa (Jharkhand) ... Petitioners Versus The State of Jharkhand .. Opp. Party ----- CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA ----- For the Petitioners : Mr. Sanjay Kr. Pandey - 2 Advocate For the State : A.P.P For the Complainant : Mr. Nagmani Tiwari, Advocate & Mr. Kaustava Panda, ADvocate ----- th 04/Dated:

9. September, 2015 I.A. No.4764 of 2015 The instant interlocutory application has been filed under Sections 397 & 401 of the Cr.P.C on behalf of the petitioners with a prayer to exempt the petitioners from surrendering in the court below.

2. Learned counsel, for the petitioners, has submitted that the petitioners and the complainant, Anita Devi have compromised the case. He has also referred to the decision in the case of Vivek Rai & Anr. Vs. High Court of Jharkhand through Registrar General & Ors. in a writ petition (Criminal) No.61 of 2012 and submitted

that Supreme Court has held that the Rule does not affect the inherent power of the High Court to exempt the requirement of surrender in exceptional situation. Learned counsel, for the complainant, has not disputed the fact that the parties have filed a joint compromise application by way of I.A. No.4766 of 2015.

3. Considering the fact that the parties have amicably settled the matter and have filed a joint compromise petition to that effect, the petitioners are exempted from filing the surrender certificate and Rule 159 of the High court of Jharkhand Rules, is hereby waived.

4. Accordingly, I.A. No.4764 of 2015 stands allowed. - 02 - Cr. Revision. No.764 of 2015 This Criminal Revision Application has been preferred against the judgment and order dated 01.04.2015, passed in Cr. Appeal No.21 of 2013 whereby the learned Additional Sessions Judge - I, Palamau at Daltonganj, while acquitting the petitioners from the charges under Sections 494 I.P.C, has affirmed the judgment and order of conviction dated 18.01.2013, passed by the learned Judicial Magistrate 1 st Class, Daltongan in Complaint Case No.406 of 2008, Tr. No.152 of 2013, whereby, the petitioner No.1 was convicted for the offence under Section 498A of the Indian Penal Code and sentenced to undergo S.I for two years and to pay a fine of Rs.2,000/- and petitioner Nos.02 to 04 were convicted for the offence under Section 498A of the Indian Penal Code and sentenced to undergo S.I for one and half years and to pay a fine of Rs.2,000/- and in default they were further sentenced to undergo S.I for one month.

2. Brief facts of the case are that the marriage of the complainant, Anita Devi was solemnized with the petitioner No.01, Krishna Kumar Ram on 14th May, 1995 as per Hindu rites and customs. It is alleged that after one year and seven months of her marriage she was subjected to torture and cruelty by her in-laws at her sasural as well as her mayake. That the complainant informed about the torture by her in-laws an demand of cash Rs.1,00,000/- to her father, who gave Rs.25,000/- to the accused person despite this she was tortured and her belongings as well as the ornaments were snatched and kept by her in-laws. It is also alleged that the younger sister of the complainant was kidnapped by the accused persons. On the basis of the complaint the learned Chief Judicial Magistrate, Jamshedpur took

cognizance of the offence and the case was transferred to the court of learned Judicial Magistrate 1st Class, Daltonganj for trial and disposal.

3. Learned Judicial Magistrate 1st Class, Daltonganj on the basis of the evidence led during the trial, found the petitioners guilty for the offence under Section 498 A and 494 of the Indian Penal Code and sentenced them which was modified in appeal by the learned Additional Sessions Judge - I, Palamau by the aforesaid impugned order. - 03 - 4. Mr. Sanjay Kumar Pandey - 2, learned counsel, for the petitioners, has submitted that petitioner Nos.1 to 04 are husband, brother-in-law, father-in-law and mother-in-law respectively. That the complainant, Anita Devi and the petitioners have compromised the case and a joint compromise petition has been filed by way of I.A. No.4766 of 2015 which is on record. It is submitted that on the intervention of wellwishers and the reputed persons of the society, the complainant and the petitioners have amicably settled the dispute and are not willing to proceed further with the case.

5. It is urged that in view of the compromise the order dated 01.04.2015, passed by the learned Additional Sessions Judge - I, Daltonganj in Cr. Appeal No.21 of 2013 and order dated 18.01.2013, passed by the learned Judicial Magistrate 1 st Class, Daltonganj, in Complaint Case No.406 of 2008, Tr. No.152 of 2013 be quashed, as the complainant, now has no grievance against the petitioners.

6. Learned counsel for the petitioners, in support of his argument, has relied on the decisions in the case of Ajit Kumar Sharma @ Jhunjhun & Ors Vrs. State of Jharkhand & Anr. (2013) 3 JCR, 699 and in the case of B.S. Joshi & Ors. Vrs State of Haryana (2003) 4 SCC, 675, and submitted that the Hon'ble Apex Court has emphasized on the need to curb the abuse of process of court, in matrimonial cases, where the parties have agreed to settle their dispute amicably by mutual agreement.

7. Mr. Nagmani Tiwari, learned counsel, for the complainant, has admitted that the complainant on her free will has amicably resolved and settled the dispute and compromised the case. That as per the terms of compromise she does not want to proceed with the case and an affidavit has been filed accepting and agreeing to the compromise.

8. Considering the fact that the matrimonial dispute has been amicably settled between the complainant/ wife and petitioners. The complainant/ wife has no grievances against the petitioners, this Court deems it just and proper, in view of the decision of the Apex Court in the case of B.S. Joshi (Supra), keeping in view the interest of the parties and for the ends of justice, to accept the compromise and compound the offences, as complainant and petitioner No.01 are leading a happy conjugal life. - 04 - 09. In view of the compromise, the judgment and order of conviction and sentence dated 01.04.2015, passed by the learned Additional Sessions Judge - I, Daltonganj in Cr. Appeal No.21 of 2013 and order dated 18.01.2013, passed by the learned Judicial Magistrate 1st Class, Daltonganj, in Complaint Case No.406 of 2008, Tr. No.152 of 2013 are, hereby, ordered to be set aside. Consequently the petitioners are acquitted of the charges and they are discharged of the liabilities of their bail bonds 10. In the result, the Cr. Revision application as well as I.A. No.4766 of 2015 stand allowed. (AMITAV K. GUPTA, J.) Chandan/-

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