

Ramesh Kumar Vs. State

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Court : Delhi

Decided On : Apr-25-2003

Reported in : 2003IVAD(Delhi)377; 106(2003)DLT534; II(2003)DMC484; 2003(69)DRJ416

Judge : B.C. Patel, C.J.,; Dalveer Bhandari,; S.K. Mahajan,; Manmohan Sarin and;

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 320 and 482; Indian Penal Code (IPC) - Sections 323, 406 and 498A

Appeal No. : Crl. Writ No. 636/2002

Appellant : Ramesh Kumar

Respondent : State

Advocate for Def. : Akshay Bipin, Adv. for Respondent No. 1

Advocate for Pet/Ap. : D.C. Mathur, Sr. Adv. and Abhilash Mathur, amices Cuari; N.S. Dalal, Adv

Judgement :

1. The Division Bench was called upon to quash the First Information Report No. 220/98, registered for an offence punishable under Section 406 of the Indian Penal Code, 1860 alleged to have been committed by the husband, on the ground that

the husband and wife compromised the disputes. The Court was requested to accept the settlement and permit the parties to compound the offence.

2. It was submitted by learned counsel for the State that mere amicable settlement was no ground for compounding a non-compoundable offence. On the basis of the Full Bench decision in case of Gurcharan Singh v. State and Anr., 2002 (1) A.D. (Delhi) 576, it was contended before the Division Bench that mere amicable settlement of a matrimonial dispute is no ground to allow the parties to compound the offence which is non compoundable. On the other hand, on the basis of the Supreme Court decision in case of Mahesh Chand and Ors. v. State of Rajasthan, : 1988 CriLJ121 , as also the case of Suresh Babu v. State of A.P. and Anr., JT (1987) (SC) 361 it was submitted by the petitioner that the amicable settlement particularly in case of husband and wife is a good ground to permit the parties to compound the offence and that the First Information Report deserves to be quashed. In view of the views expressed hereinabove, the Division Bench hearing the application referred the matter to the Larger Bench and that is how this matter is placed before this Larger Bench.

3. This bench is not required to discuss the matter in detail as in an identical case the Supreme Court has very recently pronounced a judgment on the question whether the parties can be permitted to compound a matrimonial offence which is non-compoundable under Section 320 of the Code. In case of B.S. Joshi and Ors. v. State of Haryana, : 2003 CriLJ2028 , the Apex Court in Para 15 has held as under:

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

4. It may be noted that in the aforesaid case, the proceedings were initiated for the offence punishable under Sections 498A/323 and 406 of the Indian Penal Code against the husband and others. The Apex Court after holding that non-exercise of inherent power to quash the proceedings to meet the ends of justice would act against interests of women and against the object for which these provisions were

added, quashed the proceedings in the aforesaid case. This Court, in view of the aforesaid decision of the Apex Court is of the opinion that the reference is squarely answered by the said decision and the decision of this court in case of Gurcharan Singh v. State and Anr., 2002 (1) A.D. (Delhi) 576 stands overruled.

5. The matter may be placed before the Division Bench for further hearing on 2.5.2003.

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