

Ram Swaroop Vs. State and anr.

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Court : Rajasthan

Decided On : Apr-16-2001

Reported in : II(2001)DMC347; 2002(5)WLC547

Judge : R.R. Yadav, J.

Acts : Indian Penal Code (IPC) - Sections 498A; Code of Criminal Procedure (CrPC) - Sections 482

Appeal No. : S.B. Cr. Misc. Petition No. 166 of 2001

Appellant : Ram Swaroop

Respondent : State and anr.

Advocate for Def. : Rajendra Yadav, Public Prosecutor and; Sharda, Adv.

Advocate for Pet/Ap. : Harendra Singh Sinsinwar and; Party-in-person

Disposition : Petition allowed

Judgement :

Yadav, J.

1. Heard learned counsel for the petitioner as well as the learned Public Prosecutor and Mr. Satyaveer Singh, learned counsel appearing for non petitioner No. 2 Smt. Sharda wife of the petitioner. He has tiled his Vakalatnama in Court

which may be placed on record.

2. Mr. Ramswaroop, petitioner (husband) as well as non-petitioner No. 2 Smt. Sharda (wife) who are present in person before this Court are identified by their counsel. The petitioner is identified by Mr. Harendra Singh Sinsinwar, Advocate and non-petitioner No. 2 Smt. Sharda is identified by Mr. Satyaveer Singh, Advocate.

3. From the perusal of the material placed before me and also from the order passed by the learned Magistrate, it is borne out that non-petitioner No. 2 Smt. Sharda has lodged FIR No. 198/99 against her husband-petitioner upon which, the challan was filed before the learned Magistrate and when the statement of non-petitioner No. 2 was to be recorded then the petitioner-husband entered into a compromise with non-petitioner No. 2. Non-petitioner No. 2 stated before the learned Magistrate that she does not want to press her complaint against her husband Ramswaroop. The learned Magistrate rejected the compromise entered into between the petitioner and non-petitioner No. 2 Smt. Sharda holding that the offence Under Section 498A 1PC is not compoundable.

4. Mr. Harendra Singh Sinsinwar, holding the brief of Mr. Biri Singh Sinsinwar, learned counsel for the petitioner urged before me that non-petitioner No. 2 is living with the petitioner and performing her conjugal duties and with their union, a female child is born.

5. I have gone through the material placed before me from both the sides. I have heard learned counsel for the petitioner. In support of his contention, the learned counsel for the petitioner has placed reliance upon decisions of this Court in the matters of Suresh Chand & Ors. v. State of Rajasthan (1), Kishore Kumar v. State of Raj. (2) & Rameshwar @ Pappu & Ors. v. State of Raj. and Ors. (3) .

6. The consensus of opinion in the aforesaid three cases is that matrimonial offences are basically family problems, than being offences, against the society and that adjustment and tolerance are safer ways for a happy married life. It is true that incidents do take place between a wife and husband and the best way to resolve their dispute is to discuss and find out their mutual solution, instead of

seeking intervention of a third party. Some times, hasty steps are taken in a state of excitement either by the husband or wife when a family dispute exists, but on a subsequent cool thinking the mistake is realised. In such a situation, the courts are expected to administer justice in practical manner with a view to ensure that matrimonial relationship which are sacrosanct in nature should not be broken.

7. In the present case, the petitioner-husband as well as non-petitioner No. 2 wife who are present before this Court have stated that they have started living together and they are satisfied with the behaviour of each other both of them have stated before me that with their union, a female child is born.

8. I am of the view that in such a situation, a pragmatic approach should be adopted by this Court irrespective of the fact that offence is not compoundable. To my mind, if the husband and wife both have decided to live together and with their union a child is born, the act of the learned trial Court to compel non-petitioner No. 2 to pursue her criminal complaint filed against the petitioner-husband under Section 498A IPC, tantamounts to abuse of the process of the Court and to secure the ends of justice, this Court by invoking its inherent powers conferred under Section 482 Cr.P.C. thinks it proper to quash the criminal proceedings pending against the petitioner before the trial Court together with the order passed by the learned Magistrate on 7.2.2001.

9. As a result of aforesaid discussion, I allow this petition and set-aside the impugned order dated 7.2.2001 and quash the proceedings in Criminal Case No. 442/99(State v. Ramswaroop) pending in the Court of Civil Judge (Junior Division) & Judicial Magistrate, First Class, Chomu Distt. Jaipur.