

Jaishri Vs. State and ors.

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SooperKanoon Citation : sooperkanoon.com/762766

Court : Rajasthan

Decided On : Feb-26-2009

Reported in : RLW2009(3)Raj2673

Judge : Mahesh Chandra Sharma, J.

Appellant : Jaishri

Respondent : State and ors.

Advocate for Pet/Ap. : Mr. Naveen Sharna

Disposition : Petition dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. By filing instant criminal revision petition under Section 397 read with Section 401 Cr.P.C. The petitioner has challenged the order dated 12.6.1998 passed by Addl. Chief Judicial Magistrate No. 1, Bharatpur (for short 'the trial Court') by which he discharged the accused respondents from the offence under Section 498A IPC.

2. Brief facts of the case are that the complainant petitioner lodged an FIR No. 517/1988 at P.S. Kotwali Bharatpur against the accused respondents for the offence under Section 498A IPC.

3. After investigation the police submitted final report in the matter.
4. The petitioner aggrieved with the final report, submitted protest petition in the trial Court.
5. The trial Court being disagree with the final report, took cognizance against the accused respondents for the aforesaid offence and issued process.
6. The trial Court after hearing framed charge against the accused respondent for the aforesaid offence on 19.12.1991.
7. The accused respondents being dissatisfied with the order of framing charge dated 19.12.1991 preferred a criminal revision before the revisional Court, which after hearing was dismissed on 20.10.1997 by the revisional court.
8. Thereafter, the accused respondents preferred a petition under Section Cr.P.C. in the High Court. The Co-ordinate Bench of this Court vide order dated 6.1.1998 remanded the case with the direction to the trial court to reconsider the matter, in case the accused respondents submit application along-with the documents, on which they are placing reliance.
9. In compliance of the order passed by the Co-Ordinate Bench of this Court, the accused respondents moved an application on 9.3.1998 along-with 12 documents.
10. The trial Court after hearing the arguments of both the parties, vide order dated 12.6.1998 discharged the accused respondents for the aforesaid offence. Hence, this criminal revision petition.
11. Mr. Naveen Sharrna, Counsel for the petitioner submits that the trial court has committed an illegality and irregularity in discharging the accused respondents from the aforesaid offences, though he cannot discharge them at the stage of framing charge. The trial Court cannot meticulously evaluate the evidence at the time of framing of charge, if prima facie any evidence is available on record to proceed against the accused. The trial Court cannot take into consideration the documents of defence at the stage of framing of charge. The trial Court has given undue importance to the divorce decree, against which the petitioner preferred an

appeal in the High Court in which the Co-ordinate Bench of this Court has given direction to the husband of the petitioner not to perform the second marriage till final disposal of the appeal. Thus, the order impugned be quashed and set-aside.

12. Mr. Piyush Shrimal, P.P. assisted by Mr. Rajendra Prasad, Counsel for the accused respondents controverted the afore-said submissions of Mr. Naveen Sharma and submits that the trial Court has passed the order impugned after considering all the material which was made available to him.

13. From a bare perusal of the facts of the case and the material available on record it is clear that the trial court while passing the order impugned has taken into consideration all the facts of the case including the material available on record and has not committed any illegality or irregularity in passing the order impugned. Thus, in my considered view, the order impugned passed by the trial Court needs not interference of this Court.

14. In the result, this criminal revision petition is devoid of merits and stands rejected.