

Kumar and ors. Vs. State and anr.

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Court : Chennai

Decided On : Dec-11-2006

Reported in : 1(2007)DMC549

Judge : R. Regupathi, J.

Acts : Hindu Marriage Act - Sections 13B; [Indian Penal Code \(IPC\), 1860](#) - Sections 498A; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 320

Appeal No. : Crl. O.P. No. 45245 of 2003 and Crl. M.P. No. 627 of 2006

Appellant : Kumar and ors.

Respondent : State and anr.

Advocate for Def. : P. Kumaresan, Additional Public Prosecutor for Respondent No. 1 and ;M.B. Gopalan, Adv. for Respondent No. 2

Advocate for Pet/Ap. : A.L. Gandhimathi, Adv.

Judgement :

ORDER

R. Regupathi, J.

1. The petitioners are accused for an offence punishable under Section 498A IPC originally on the file of the first respondent police and subsequently on the file of

the Inspector of Police, All Women Police Station, Chennai. On conclusion of the investigation, final report has been filed and it is pending in C.C. No. 135 of 2002 on the file of the learned Judicial Magistrate II, Chengalpattu.

2. The petitioners have filed a petition to quash the proceedings in CrI.O.P. No. 45245 of 2003 and the same was taken on file and notice has been issued to the respondent. In such circumstances, the present petition has been filed under Section 320, Cr.P.C. by both the parties. It has been stated that the dispute between the de facto complainant and the accused has been settled. The complainant has received a sum of Rs. 3,50,000 as future maintenance and also has submitted that the streedhana articles including the jewels have been received. The parties have agreed to dissolve the marriage by mutual consent and such petition has also been filed under Section 13B of Hindu Marriage Act. Initially a divorce petition was filed by the first petitioner and it was allowed. Aggrieved against a CMA has been filed and it is pending before this Hon'ble Court. Pending CMA, a new petition has been filed to dissolve the marriage by consent. In such circumstances, the first and second petitioners were present in Court. The de facto complainant is also present. I have enquired with the de facto complainant, who confirms the receipt of future maintenance and streedhana properties and further submitted that she is willing to compromise the dispute.

3. I have heard the learned Additional Public Prosecutor in this regard and I have perused the materials available on record.

4. As the dispute between the de facto complainant and the accused has been settled, I find that there may not be any use in continuing the prosecution pending in C.C. No. 136 of 2002 on the file of the learned Judicial Magistrate, Chengalpattu. The offence is under Section 498A, IPC, which is non compoundable. However, the Supreme Court has held that by invoking inherent powers of this Hon'ble Court and if the parties have compromised the dispute, the offence may be allowed to be compounded. In such circumstances, in view of the facts and circumstances of the case, the offence is allowed to be compounded and the accused are acquitted. Accordingly, the proceedings pending in C.C. No. 136 of 2002 is quashed. The petition is ordered accordingly, Consequently, connected

Crl.M.P. No. 627 of 2006 is closed.

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