

Santosh Kumar Rai and Others Vs. State and Another

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Court : Uttaranchal

Decided On : Sep-06-2010

Judge : Dharam Veer, J.

Acts : [Code of Criminal Procedure \(CrPC\), 1973](#) - Section 482; Indian Penal Code (IPC) - Section 498A, 323, 504; Prohibition Act - 3, 4

Appeal No. : COMPROMISE OR COMPOUNDING APPLN. NO.1011 of 2010 And CRIMINAL APPLICATION NO.516 OF 2009

Appellant : Santosh Kumar Rai and Others

Respondent : State and Another

Judgement :

1. Heard learned counsel for the parties on the applications and perused the record available.
2. This criminal petition, moved u/s 482 of the Code of Criminal Procedure, 1973 (hereinafter to be referred as Cr.P.C.), is directed for quashing the proceedings of Criminal Case No.220 of 2008, State v. Santosh Kumar & others, U/s 498-A/323/504 IPC and 3/4 Dowry Prohibition Act, pending before 1st ACJM, Haridwar.
3. A compounding application No.1011/2010 has been filed on behalf of the petitioners and complainant/respondent no.2 along with which the respective

affidavits of the parties have also been filed. In those affidavits, common averments have been made to the effect that the petitioner no.1-Santosh Kumar Rai and respondent no.2-Smt. Ruchi, who were the parties to the matrimony, have decided to settle their matrimonial disputes and, therefore, they entered into a compromise and now they are living happily separately on their own volition. In the joint compromise also it has been stated that both the parties i.e. Santosh Kumar Rai and Smt. Ruch shall file Divorce Petition before the Family Court, Haridwar with mutual consent within a week and get decree on the basis of compromise and further the applicant no.1 has paid a sum of Rs.8.00 lacs as permanent alimony to the respondent no.2 as final settlement of all dues. As such, it is prayed that the parties may be permitted to compound the case and the compounding/compromise application may be allowed and furthers proceedings in Criminal Case no.220 of 2008, State v. Santosh Kumar Rai & others U/s 498-A/323/504 IPC and 3/4 Prohibition Act, pending before the 1st ACJM-II, Haridwar, may be quashed in terms of the compromise arrived at between the parties.

4. In a judgment delivered by the Hon'ble Apex Court in the case of B.S. Joshi & others v. State of Haryana & Another reported in (2003) 4 SCC P675, the Hon'ble Apex Court in paragraphs 12 and 13 held as under:-

“12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging

matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts."

Learned counsel for the petitioners further relied upon the judgment of the Hon'ble Apex Court in the case of Ruchi Agarwal v. Amit Kumar Agarwal & others reported in 2005 SCC (Cri.) 719, para 5, 6 & 9 whereof are quoted as below: -

"5. In the compromise petition, referred to herein above, both the parties had agreed to withdraw all the civil and criminal cases filed by each against the other. It is pursuant to this compromise, the above divorce as sought for by the appellant was granted by the husband and pursuant to the said compromise deed the appellant also withdrew Criminal Case No.63 of 2002 on the file of the Family Court, Nainital which was a complaint filed under Section 125 of the Criminal Procedure Code for maintenance. It is on the basis of the submission made on behalf of the appellant and on the basis of the terms of the compromise, said case came to be dismissed. However, so far as the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act is concerned, which is the subject matter of this appeal, the appellant did not take any steps to withdraw the same. It is in those circumstances, a quashing petition was filed before the High Court which came to be partially allowed on the ground of the territorial jurisdiction, against the said order the appellant has preferred this appeal. 6. From the above-narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also undertook to withdraw all proceedings civil and criminal filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent-husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

9. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt.Rampur) filed under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.”

5. In view of the aforesaid facts and circumstances of the case as well as in view of the aforesaid judgments of the Hon’ble Apex Court, as quoted above, I find that since the parties have entered into a compromise, no useful purpose will be served to prolong the pendency of the above mentioned case.

6. Considering the above facts and the principle laid down by the Apex Court, the compromise/compounding application no.1011/2010 is allowed. Further proceedings in Criminal Case No.220 of 2008, State Vs. Santosh Kumar Rai & others, pending in the court of Ist ACJM, Haridwar U/s 498-A/323/504 IPC and 3/4 Dowry Prohibition Act, are hereby quashed.

7. C482 petition is disposed of accordingly.

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