

Pankaj Mishra and Smt. Ansuiya Devi Vs State of U.P. and Smt. Jaya Mishra

Court: Allahabad High Court

Date of Decision: May 17, 2006

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 482

Dowry Prohibition Act, 1961 â€” Section 3, 4

Hindu Marriage Act, 1955 â€” Section 13

Penal Code, 1860 (IPC) â€” Section 323, 406, 498A, 504, 506

Citation: (2006) CriLJ 3766 : (2007) 5 RCR(Criminal) 232

Hon'ble Judges: R.K. Rastogi, J

Bench: Single Bench

Advocate: Amit Kumar, C.L. Pandey, Samit Gopal and Renu Rajat, for the Appellant; Kamal Krishna and Shesh Kumar and A.G.A., for the Respondent

Final Decision: Allowed

Judgement

R.K. Rastogi, J.

This is an application u/s 482 Cr. P. C. for quashing the proceedings of Criminal Case No. 1254 of 2003, Smt. Jaya

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2. The facts relevant for disposal of this application are that the complainant opposite party No. 2 filed a complaint against the accused applicants

under Sections 406, 504 506 I.P.C. with these allegations that her marriage had taken place with the accused Pankaj Mishra on 16.2.1997 and

sufficient dowry valuing several lacs of rupees was given. However, her husband and her mother in law (present accused applicants) were not

satisfied with dowry and they asked the complainant that she should get a house transferred to their names from her father. Her father expressed

his inability to do so, and therefore the accused started to commit atrocities upon her and on 9.6.97 they forced her to leave the house . They also

kept with them the entire items of dowry which were her Stridhan. She therefore filed a complaint against the accused persons and after recording

the statements of complainant and her witnesses, the learned Magistrate summoned the accused persons under Sections 406 504 506 I.P.C. Being

aggrieved with that order the accused filed the present application u/s 482 Cr.P.C. for quashing the same.

3. It may be mentioned that the accused Pankaj Misra also filed Matrimonial Suit No. 612 of 2002 against the complainant Jaya Misra u/s 13 of

Hindu Marriage Act for divorce in the Family Court Allahabad and in that case a compromise was filed by the parties whereby the parties agreed

to dissolution of marriage . It was further provided that Pankaj Misra would pay to Jaya Misra a sum of Rs. 2 lacs as permanent alimony in lieu of

Stridhan and maintenance etc. This amount was paid to Smt Jaya Misra. The compromise was also verified by both the parties before the Family

Court, Allahabad. A copy of the compromise and the order passed by the Family Court on that compromise have been filed in this Misc.

application . It has been provided in paragraphs No. 12 and 13 of the compromise petition that this criminal case under Sections 406 504 506

I.P.C. shall not be pressed in view of this compromise and the same procedure shall be adopted in this Misc. case also after filing a certified copy

of the compromise and the order passed by the court on the petition.

4. Heard the learned Counsel for the applicant as well as the learned A.G. A. None appeared on behalf of the complainant.

5. A point was raised before me that the cognizance had been taken by the Magistrate under Sections 406 504 506 I.P.C. in the criminal case and

the offence u/s 406 I.P.C. is non compoundable and the accused are liable to be prosecuted. To meet this point learned Counsel for the applicant

has cited before me a ruling of Hon"ble Supreme Court which is reported as B.S. Joshi v. State of Haryana I (2003) DMC 524 (SC). In this case

the facts were that a criminal case under Sections 498A/323 and 406 I.P.C. was pending against the husband . During the pendency of the case, a

compromise took place between the husband and the wife . It was laid down by Hon"ble Apex Court that in view of the compromise between the

parties, the criminal proceedings against the husband should be quashed u/s 482 Cr.P.C. Learned Counsel for the accused applicant also cited

before me a ruling of Hon"ble Supreme Court in Ruchik Agarwal v. Amit Kumar Agarwal 2005 AJIC 209. In this case also a compromise had

been reached between the husband and the wife and so the Hon"ble Apex Court quashed the proceeding of the criminal case under Sections

498A, 323 and 506 I.P.C. holding it to be an abuse of the process of the court. The above view of Hon"ble Apex Court was followed by this

Court in the cases of Syed Shabbir Hasan alias Maseeh Abbas and Ors. v. State U.P. and Ors. 2005 All JIC 548 and Smt. Shakuntala Devi and

Ors. v. State of U.P. and Anr. 2005 All JIC 713 and in both these cases the proceedings of criminal cases under Sections 498A, 323 I.P.C. and

3/4 Dowry Prohibition Act on the complaint of the wife against her husband were quashed taking into consideration the compromise reached

between them. In view of the law laid down in the above rulings, I am of the view that in the present case also, the proceedings of the criminal case

deserve to be quashed and the present application u/s 482 Cr. P. C. deserves to be allowed.

6. Accordingly, the application u/s 482 Cr. P. C. is allowed. The proceedings of Criminal Case No. 1254 of 2003, Smt. Jaya Mishra v. Pankaj

Mishra and Anr. pending in the court of Addl. Chief Judicial Magistrate , Allahabad are hereby quashed.