(2010) 06 JH CK 0005

Jharkhand High Court

Case No: Writ Petition (Cr.) No. 372 of 2009

Rakesh Kumar Mishra and Others		APPELLANT
	Vs	
The State of Jharkhand and Another		RESPONDENT

Date of Decision: June 25, 2010

Acts Referred:

- Dowry Prohibition Act, 1961 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 323, 34, 406, 498A, 506

Citation: (2013) 1 JLJR 218

Hon'ble Judges: Sushil Harkauli, Acting C.J.

Bench: Single Bench

Advocate: Pandey Neeraj Rai, for the Appellant; Ashutosh Mishra, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Sushil Harkauli, A.C.J.

1. This writ petition by the husband (petitioner No. 1) and his family prays for quashing the criminal proceedings initiated by the wife (respondent No. 2) by way of criminal complaint being C/1 Case No. 866/2006 under Sections 323/406/498A/506/ 34 IPC and Sections 3/4 of the Dowry Prohibition Act. There was civil (matrimonial) as well as criminal litigation between the parties. During the pendency of the same the parties entered into a written agreement (Annexure-5). The execution of the agreement is not disputed. Under the agreement the husband was to pay Rs. 7 lacs to the wife in two installments of 5 and 2 lacs, and was also to discharge a loan liability of Rs. 2 lacs. The wife in return was to cooperate for a divorce by mutual consent and was also to withdraw the criminal proceedings. It is not in dispute that the loan liability has been discharged by the husband and that he has paid to the wife Rs. 4 lacs. In addition he has deposited Rs.

3 lacs in the Court below where divorce proceedings were pending. It is also not disputed that although the wife has not yet withdrawn the said amount of Rs. 3 lacs, but there is no restriction and she can withdraw the money whenever she wants.

2. The dispute raised by the wife now is that she should be paid a further amount of Rs. 8 lacs, without which she will not perform her obligation under the agreement. The justification given for this new and additional demand is that this amount represents the extra expenditure incurred in performance of her marriage.

3. The husband, as well as the wife accompanied by her father are said to be present in Court today. I have heard the learned counsel for both sides.

4. Prima facie the amount which had been spent in the marriage would have been known fully to the wife and her father at the time when the written compromise was entered into. At that time, the parties agreed upon payment of the aforesaid amount namely Rs. 4 lacs and Rs. 3 lacs and the discharge of the liability of Rs. 2 lacs towards the loan amount of a car. The total amount is Rs. 9 lacs. It had been agreed by the wife that upon this payment she would agree to a mutual divorce and also withdraw the criminal case pending against the husband and husband''s family.

5. The husband has discharged liability of Rs. 2 lacs and has paid a sum of Rs. 4 lacs. The husband has also deposited the balance amount of Rs. 3 lacs before the Court below which the wife is entitled to withdraw.

6. The above factual position is not disputed by the learned counsel appearing for the wife, however, it has been submitted on behalf of the wife that now the wife wants a further sum of Rs. 8 lacs. The justification for this further demand is that more money had been spent on the marriage. In absence of any cogent explanation, on the face of it, this seems to be a pure afterthought because if more money had been spent at the marriage then in that case at time of entering into the written agreement, the wife or her father should have insisted on larger amount instead of agreeing on the amount mentioned in the agreement. This kind of unfair conduct on the part of the wife or her father cannot be countenanced by the Court as it would amount to encouraging unscrupulous tactics of blackmailing a person who is facing a criminal charge. Considering the overall facts and circumstances of the case, the criminal proceeding against the husband and his family are quashed.