

Dr. Naveen Kumar, Romit Kumar and Saraswati Prasad Vs The State of Jharkhand and Rabindra Kumar Lala

Court: Jharkhand High Court

Date of Decision: July 14, 2011

Acts Referred: Hindu Marriage Act, 1955 â€” Section 12(1), 13(1)(B)
Penal Code, 1860 (IPC) â€” Section 313, 34, 406, 420, 498A

Hon'ble Judges: D.K. Sinha, J

Bench: Single Bench

Final Decision: Allowed

Judgement

D.K. Sinha, J.

Petitioners have invoked the inherent jurisdiction of this Court for quashment of the order dated 20.04.2011 by which the

Judicial Magistrate, Dhanbad after enquiry of C.P. Case No. 533 of 2011 found a prima facie case under Sections 498A/313/406/420/34 of the

Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act against them.

2. The complainant-opposite party No. 2- Rabindra Kumar Lala presented the Complaint Petition No. 533 of 2011 before the learned Chief

Judicial Magistrate, Dhanbad narrating that his daughter Neha Lala was married to the Petitioner Romit Kumar on 20.01.2011 according to the

Hindu rites and rituals at Dhanbad and at that time it was apprised to him that the groom was engineer in Electronics and Electrical Engineering and

had also completed M.B.A. from Pune. On the eve of marriage sufficient amount of cash and jewelleryes were given to the groom side. After

marriage, his daughter went to her matrimonial home at Ranchi. In the reception party which was held on 02.02.2011 the accused persons

demanding Maruti SX4 Car and conveyed that they would visit Dhanbad on 12.01.2011 for collecting the amount of dowry which was due to him.

On 11.02.2011, the bride Neha Lala came to Dhanbad to appear in the GATE examination where she explained to her parents that her entire

ornaments and other valuables were retained by her mother-in-law i.e. Petitioner No. 3 The Petitioners visited Dhanbad on 12.02.2011 as per

schedule and demanded Rs. 50,000/alleged to be due to the complainant and further reiterated their demand of Maruti SX4. During stay at her

matrimonial home Neha Lala became pregnant whereupon accused No. 3 i.e. motherinlaw threatened that Neha Lala would not be allowed to

continue her pregnancy unless the dowry that has demanded would be fulfilled. She suffered mental and physical torture in various ways at the

hands of the accused Petitioners. She developed pain in her uterus in the month of March but she was left uncared. Some sort of medicine was

administered by her motherinlaw, as a result of which her pain aggravated. The Petitioners then brought her to Dhanbad but taking into

consideration the serious condition, the complainant took her back to Ranchi at her matrimonial home for that the complainantfather of Neha Lala

was scolded and their held exchange of wrods. In the same sequences, Neha was dragged and badly assaulted by the accused persons. She was

then brought to Dhanbad where she developed severe bleeding and her condition deteriorated. She was removed to Jalan Memorial Hospital

where she was advised for complete abortion for her survival and accordingly evacuation was effected at the advise of doctor.

3. The complainant-opposite party No. 2 appeared and filed counteraffidavit During course of argument on behalf of the parties, the Court

proposed and asked as to whether there was chance of compromise between the parties in view of the facts and circumstances of the case that the

father of the bride Neha had instituted the instant case but a separate suit for dissolution of marriage was filed by the husbandPetitioner under

Setion 12(1)(d) of the Hindu Marriage Act before the Principal Judge, Family Court, Ranchi.

4. Serious objection was raised by the learned Counsel for the opposite party No. 2 that in the Matrimonial Suit filed by the husbandPetitioner No.

2 before the Principal Judge, Family Court, Ranchi serious allegation detrimental to character was levelled against Nehal Lala by questioning her

fidelity that she was bearing pregnancy even during time of her marriage and by taking such plea the husband had filed suit for dissolution of

marriage. However, on the request of counsel for the parties, adjournments were given and finally both the parties came to terms and filed I.A. No.

1278 of 2011 by way of joint compromise petition wherein modalities of compromise were enumerated, as follows:

(i) The husbandPetitioner No. 2 and the daughter of the complainant-opposite party No. 2 decided to settle the dispute for getting separation from

each other by a decree of divorce with their mutual consent by filing a petition u/s 13(1)(B) of the Hindu Marriage Act before the Principal Judge,

Ranchi.

(ii) In view of the above terms of compromise, Petitioner No. 2husband agreed without any duress to pay permanent alimony of Rs. 12.5 lacs by

way of three demand drafts in favour of Neha Lala and accordingly the same were delivered to her in the manner as contained in Para 6 of the

compromise petition (I.A. No. 1278 of 2011). That amount of Rs. 12.5 lacs was paid to Neha Lala and accepted by her as one time permanent

alimony and that she would not claim any alimony or any amount whatsoever from the Petitioner No. 2 husband or members of his family in future.

It was admitted that entire Stridhan of Neha Lala has been returned to her however it was specified that the Petitioners have also taken back their

belongings whatsoever they had given to Neha Lala at the time of her marriage to their full satisfaction.

5. The complainant-opposite party No. 2 requested before this Court that in view of the compromise, he would file withdrawal petition for the

withdrawal of C.P. Case No. 533 of 2011.

6. Alternatively, it is requested that the instant Criminal Miscellaneous Petition for quashment of C.P. Case No. 533 of 2011 may be allowed on

the basis of the compromise petition. In the joint compromise petition (I.A. No. 1278 of 2011), Petitioner No. 2 agreed to withdraw the

Matrimonial Suit No. 140 of 2011 filed by him against Neha Lala under Sections 12(1)(d) of the Hindu Marriage Act however with his declaration

that the suit was filed under misconception of fact and there was bonafide mistake on his part and that he would withdraw such matrimonial suit

positively by 16.07.2011 otherwise, it would amount to giving incorrect statement on oath before this Court. It was mutually agreed by Neha Lala

and Petitioner No. 2 Romit Kumar to take divorce from each other with mutual consent by filing petition u/s 13(i)(B) of the Hindu Marriage Act

and the party concerned would incur their own expenses in so doing. Finally, it is contended that the dispute between the parties are purely

personnel in nature arising out of matrimonial dispute, as such parties may be allowed to compromise the case.

7. Finally the Petitioners and the opposite party No. 2 requested quashment of the criminal proceeding arising out of C.P. Case No. 533 of 2011

pending in the Court of Shri B.K. Pandey, Judicial Magistrate, Dhanbad in terms of the compromise and the principles laid down in the B.S. Joshi

and Others Vs. State of Haryana and Another, wherein the Apex Court observed,

In the present case, the wife filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations.

There may be many reasons for not supporting the imputations. In such eventuality, there would almost be no chance of conviction. So it would not

be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound noncompoundable offences.

It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona

fides. Further, in Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandrojirao Angre and Others, it was held that while exercising

inherent power of quashing u/s 482, it is for the High Court to take into consideration any special features which appear in a particular case to

consider whether it is expedient and in the interest of justice to permit a prosecution to continue. The special features in such matrimonial matters

are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.

8. Having regard to the facts and circumstances, I find that since the Petitioners including the husband have settled their disputes with the

complainant opposite party No. 2 in terms of the modalities in the joint compromise petition and they have agreed to withdraw the case/suit

instituted against each other, I find some special feature in this case that in the given circumstances the prosecution would not be able to secure

conviction of the Petitioners.

9. It was observed in B.S. Joshi's Case(Supra) ""Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no

useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may, while taking into consideration the special facts

of a case, also quash the proceedings"".

10. Relying upon the decision referred to herein before and finding that this case is similarly situated with special features, the entire criminal

proceeding of the Petitioners arising out of Complainant Petition No. 533 of 2011 pending before Shri B.K. Pandey. Judicial Magistrate, 1st

Class, Dhanbad is quashed in terms of the compromise laid down in I.A. No. 1278 of 2011. Accordingly, this petition and the I.A. No. 1278 of

2011 are allowed as indicated above.