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**(2015) 08 KAR CK 0283**

**Karnataka High Court**

**Case No:** Criminal Petition Nos. 6617, 6618 and 6619/2012 and 5444 of 2013

Rukmini M.R. and Others

APPELLANT

Vs

Shruthi S.R. and Others

RESPONDENT

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**Date of Decision:** Aug. 19, 2015

**Acts Referred:**

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

**Hon'ble Judges:** A.N. Venugopal Gowda, J

**Bench:** Single Bench

**Advocate:** C.N. Raju, for the Appellant; K.R. Nagaraja, Advocates for the Respondent

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

A.N. Venugopal Gowda, J

Marriage of the petitioner and respondent No. 1 in Crl.P. No. 5444/2013 was solemnized on 15.02.2008. From 02.05.2008, they have been living separately due to incompatibility. Respondent No. 1 having lodged a complaint on 16.08.2012, respondent No. 2 registered FIR in Crime No. 87/2012 against the petitioners in these petitions, for the offences under Sections 498-A and 506 of IPC and Sections 3 and 4 of D.P. Act, 1961. Charge sheet having been filed, C.C. No. 1392/2013 was registered by the VI Additional Chief Metropolitan Magistrate, Bengaluru, after taking cognizance of the said offences. Seeking quashing of the FIR in Crime No. 87/2012 of the Halasurgate Police Station, Crl.P. Nos. 6617/2012, 6618/2012 and 6619/2012 were filed by the accused Nos. 2 to 4. After the charge sheet was filed and summons was issued, the husband, arraigned as accused No. 1 filed Crl.P. No. 5444/2013 for quashing of the proceedings pending before the court below.

2. In M.C. No. 1241/2012, the spouses have entered into a Memorandum of Settlement on 07.06.2013. The parties having appeared before the Family Court and

having stated that there is an amicable settlement of the matter, the III Additional Principal Judge, Family Court, Bengaluru, has passed decree of divorce by treating the Memorandum of Settlement as part and parcel of the judgment.

3. Sri C.N. Raju, learned advocate appearing for the petitioners submitted that in view of the settlement arrived at in M.C. No. 1241/2012 on 07.06.2013 and the decree for divorce passed, based on the said settlement on 22.06.2013 by the III Additional Principal Judge, Family Court, the continuance of the impugned proceedings would amount to abuse of process of law by the respondents. Learned counsel submitted that the decree passed in M.C. No. 1241/2012 on 22.06.2013, based on the settlement arrived at in the Bangalore Mediation Centre on 07.06.2013 having been acted upon and decree passed having attained finality and hence, these petitions are liable to be allowed and the impugned proceedings quashed.

4. Sri K.R. Nagaraja, learned advocate appearing for respondent No. 1 submitted that the jewellery belonging to respondent No. 1 having been retained by the petitioners, they may be directed to handover the same. Learned counsel submitted that if the retained jewellery is delivered, respondent No. 1 would have no objection for quashing of the proceedings.

5. In terms of the Memorandum of Settlement dated 07.06.2013, N. Gowrishankar, the husband, has paid to Smt. Shruthi S.R., the wife, the mutually agreed amount of Rs. 10,00,000/-, in full and final settlement of the entire claim of permanent alimony. In the said Memorandum of Settlement, it has been stated that "the parties have already exchanged the articles belonging to each other i.e., gold, silver and other things, given or taken at the time of marriage or otherwise and as such, all their claims are settled and there is no due against each other." It has also been agreed "that the spouses have no other claims of whatsoever manner against each other and that they shall render co-operation for quashing of the proceedings of C.C. No. 1392/2013, pending on the file of the VI Additional Chief Metropolitan Magistrate, Bengaluru."

6. On 22.06.2013, the spouses having appeared before the learned III Additional Principal Judge, Family Court, Bengaluru, and their respective counsels having reported the settlement arrived at in the Bangalore Mediation Centre and the parties having admitted the execution of the Memorandum of Settlement and both parties having stated that the terms and conditions of the Memorandum of Settlement are true and correct and that they have voluntarily entered into an amicable settlement, the mutually agreed amount of Rs. 10,00,000/- having been paid by way of a Demand Draft, the Memorandum of Settlement was accepted and in terms thereof, the marriage solemnized on 15.02.2008 was dissolved. Thus, it is clear that the settlement entered into at the Bangalore Mediation Centre on 07.06.2013 and the Memorandum of Settlement produced in M.C. No. 1241/2012 has been accepted and acted upon. The said settlement makes it clear that there is exchange of articles belonging to each other, such as gold, silver and other things

given or taken at the time of marriage or otherwise and all the claims having been settled, there is a declaration made that there is no dues against each other. In the circumstances, the contention of respondent No. 1 that there is retaining of gold jewellery and that the same should be handed over is unacceptable, since, the reopening of the case in M.C. No. 1241/2012, on the ground of fraud or coercion or inducement, has not been sought. The decree passed in M.C. No. 1241/2012 having become final, there will be abuse of process of law by respondent No. 1 by continuing the prosecution of the petitioners in C.C. No. 1392/2013, pending on the file of the VI Additional Chief Metropolitan Magistrate, Bengaluru.

In the result, petitions are allowed and the entire proceeding of C.C. No. 1392/2013, pending on the file of the VI Additional Chief Metropolitan Magistrate, Bengaluru, is quashed.