

HON'BLE SRI JUSTICE M.S.K. JAISWAL

CRIMINAL PETITION No. 9752 of 2011

ORDER:

This Criminal Petition is filed by the petitioners/A.1 to A.4, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), seeking to quash all further proceedings in C.C.No.733 of 2009 on the file of the Additional Judicial Magistrate of First Class, Vizianagaram, which is said to have been filed by the 2nd respondent-*de facto* complainant for the offences punishable under Section 498-A r/w 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Heard the learned counsel for the petitioners, the learned Additional Public Prosecutor representing the State and the learned counsel for the 2nd respondent.

3. The petitioners/A.1 to A.4 are the husband, mother-in-law and sisters-in-law of the 2nd respondent. After marriage between the 1st petitioner/A.1 and the 2nd respondent-*de facto* complainant, some differences arose between them, and thereafter, both of them filed F.C.O.P.No.75 of 2011 on the file of the Judge, Family Court, Vizianagaram, under Section 13(b) of the Hindu Marriage Act, 1955, and obtained divorce by mutual consent, and one of the conditions incorporated therein is to the effect that the present complaint, filed for the offences punishable under Section 498-A r/w 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961, is also to be withdrawn by the 2nd respondent-*de facto* complainant. With that condition, the said divorce petition was decreed.

4. The learned counsel appearing for the 2nd respondent-*de facto* complainant submits that the 2nd respondent has no objection for withdrawal of the criminal case filed by her, but the Court below refused to withdraw the said case on the ground that Sections 3 and 4 of the Dowry Prohibition Act, 1961 are not compoundable.

5. Learned counsel appearing for the petitioners has relied on a decision of the Supreme Court in ***Ruchi Agarwal v. Amit Kumar Agrawal and others***^[1], wherein it is held in paragraph No.8 as follows:

"Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where Section 125 Cr.P.C. proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents."

6. Since the parties have already entered into compromise,

there is no point in continuing the criminal case. In that view of the matter, all further proceedings in C.C.No.733 of 2009 on the file of the Additional Judicial Magistrate of First Class, Vizianagaram, are quashed.

7. Accordingly, this Criminal Petition is allowed. As a sequel thereto, miscellaneous applications, if any pending in the Criminal Petition, shall stand closed.

M.S.K. JAISWAL, J

Date: 09.07.2015

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[\[1\]](#) (2005) 3 SCC 299