

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1602 OF 2019

ORDER:-

1. Heard Sri Akhileshwar, learned counsel who is representing Sri A.Tulsi Raj Gokul, learned counsel on record for the petitioners. Also heard the learned Additional Public Prosecutor who is representing Respondent No.1. Despite of service of notice, none appears for Respondent No.2.

2. This Criminal Petition is filed under Section 482 Cr.P.C. seeking the Court to quash the proceedings that are pending against the petitioners, who are arrayed as Accused Nos.1 to 5 in C.C.No.155 of 2018, on the file of the Court of Judicial Magistrate of First Class, Chevella.

3. Making his submission, learned counsel for the petitioners contend that the petitioners neither demanded dowry nor additional dowry and due to trivial disputes, petitioner No.1 and the 2nd respondent, who are husband and wife, started residing separately. Learned counsel further submits that both of them, i.e. petitioner No.1 and the 2nd respondent filed a petition under Section 13B of Hindu Marriage Act for dissolution of marriage by mutual

consent and in the said application, the 2nd respondent/*defacto* complainant unconditionally undertook to withdrew the criminal case, but she did not do so. Learned counsel thereby seeks to quash the proceedings. In this regard, learned counsel relied upon the decision of the Hon[^oble Apex Court in the case between **RAJIV KUMAR SHARMA & ANR. Vs. THE STATE OF UTTAR PRADESH & ANR.**¹ wherein their lordships dealing with similar situation, at Para 6 of the order, held as follows:-

“6. It is not in dispute that after the settlement, matrimonial proceedings have been finally disposed of. The High Court despite this arrangement arrived at between the parties, however, declined to quash the proceedings. In our opinion, the High Court should have taken note of the fact that the parties have amicably resolved all their differences and consciously chose to unconditionally drop all proceedings related to marriage inter se including the criminal action initiated by the complainant-respondent No.2.”

4. The submission of the learned Additional Public Prosecutor is that as the petitioners demanded additional dowry and harassed the 2nd respondent, she gave

¹ 2019 Latest Caselaw 1017 SC

complaint to police and thus, proceedings were initiated against the petitioners.

5. A perusal of the petition filed for dissolution of marriage by mutual consent goes to show that the 2nd respondent/*de facto* complainant agreed to withdraw the criminal case that is pending against the petitioners herein. She gave an affidavit also to that effect. Thus, it is clear that there is amicable settlement between the parties. Further, the contents of the charge sheet goes to show that the troubles between the couple started when the 2nd respondent came to know that petitioner No.1 misrepresented that he possess MBBS Degree.

6. Having considered all these aspects, more particularly the affidavit given by the 2nd respondent which goes to show that she undertook to withdrew the criminal case, this Court is of the view that the request of the petitioners can be honoured.

7. Resultantly, the Criminal Petition is allowed. The proceedings that are pending against the petitioners in C.C.No.155 of 2018 before the Court of Judicial Magistrate of First Class, Chevella, are hereby quashed.

8. Miscellaneous petitions, if any pending, shall stand closed.

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Dt.08.02.2023
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