

RAJENDRA BHAGAT

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v.

STATE OF JHARKHAND & ANR.

(Criminal Appeal No. 2 of 2022)

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JANUARY 03, 2022

[DINESH MAHESHWARI AND VIKRAM NATH, JJ.]

Penal Code, 1860: s. 498A – Husband or relative of husband of a woman subjecting her to cruelty – Conviction of the appellant-husband u/s 498A and imposition of simple imprisonment for three years – Few years later, appellant and his wife entered into a settlement, resolved all their disputes and are leading a happy conjugal life – High Court took note of the settlement, and reduced the sentence to the period of imprisonment already undergone, however, upheld the conviction u/s 498A – On appeal, held: Taking note of the terms of settlement which include the undertaking of the appellant that he would be nominating the wife as the nominee in his service record; and where the parties are said to be leading a happy conjugal life, the High Court should have accepted the settlement and quashed all the proceedings with annulment of the orders against the appellant – However, the High Court did not do so – To meet ends of justice, such course is adopted – Settlement.

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B.S. Joshi and Others v. State of Haryana and Another (2003) 4 SCC 675 : [2003] (2) SCR 1104; Bitan Sengupta & Anr. v. State of West Bengal & Anr. (2018) 18 SCC 366 – referred to.

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Case Law Reference

[2003] (2) SCR 1104 referred to Para 8

(2018) 18 SCC 366 referred to Para 9

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CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2 of 2022.

From the Judgment and Order dated 17.02.2021 of the High Court of Jharkhand at Ranchi in Criminal Revision No.910 of 2019

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A Ms. Anamika Ghai Niyazi, M. A. Niyazi, Kunal Kishore, Ms. Kirti Jaiswal, Ms. Nehmat Sethi, Ms. Tanshi Arora, Krishan Pal Mavi, Advs. for the Appellant.

Jayant Mohan, Ms. Adya Shree Dutta, Aditya Kumar, Ms. Mrinmayee Sahu, Advs. for the Respondents.

B The Order of the Court was passed :

ORDER

1. Leave granted.

C 2. This appeal is directed against the judgment and order dated 17.02.2021 as passed by the High Court of Jharkhand at Ranchi in Criminal Revision No. 910 of 2019 (with I.A. No. 6052 of 2020), whereby the High Court, after taking note of the settlement between the parties, who have resolved their marital discord and are leading a happy conjugal life, has confirmed the conviction of the appellant under Section 498-A of the Indian Penal Code, 1860 ('IPC') while reducing the sentence to D the period of imprisonment already undergone by the appellant.

3. The only question requiring determination in the present appeal is as to whether the High Court, even after taking note of the settlement of the parties resolving their marital disputes, has erred in not setting aside the order of conviction altogether. Having regard to the short question E involved, dilation on all the factual aspects is not necessary and only a brief reference for the background would suffice.

4. The appellant joined Indian Army as Naik on 12.09.2005. The appellant and the respondent No. 2 were married on 25.05.2013. Certain disputes having arisen, the respondent No. 2 lodged an FIR bearing No. F 204 of 2014 at Police Station, Sisai against the appellant and his family members with the allegations of demand of dowry, mental and physical torture etc. On 26.11.2014, the chargesheet was filed for offences under Sections 498-A, 323, 417, 34 IPC against the accused persons and charges were framed accordingly. After trial in GR Case No. 904 of 2014, the learned Judicial Magistrate, First Class, Gumla, convicted the G appellant of the offence under Section 498-A IPC and the other accused persons of the offence under Section 323 IPC. All the accused persons were acquitted of the charges under Sections 417, 34 IPC. Except the appellant, all other accused persons were given the benefit of Probation of Offenders Act, 1958 but, the appellant was sentenced to undergo H simple imprisonment of three years.

5. The appeal preferred by the appellant, being Criminal Appeal No. 10 of 2019, was dismissed by Sessions Judge, Gumla on 30.05.2019. Thereafter, the appellant preferred a revision petition before the High Court, being Criminal Revision No. 910 of 2019. While the said revision petition was pending, two significant events took place. The first had been sanction of competent authority for dismissal of the appellant from his military service w.e.f. 14.07.2020 for having been convicted of the offence under Section 498-A IPC. In the second relevant event, on 24.11.2020, the appellant and the respondent No. 2 submitted a joint application before the High Court, *inter alia*, stating that with the intervention and advice of family members, common relatives and friends, they had entered into settlement and resolved all their disputes. It was submitted that upon the appellant approaching his wife for settlement with assurance to keep her with full honour and dignity, the proposal was accepted by the wife (respondent No. 2) with some conditions, while also undertaking to discharge her matrimonial duties. It was submitted that the parties were residing together with love and affection and with no dispute between them. It was, therefore, jointly prayed that since the dispute was a family dispute that arose due to miscommunication and misunderstanding, now the revision petition may be disposed of in view of the changed circumstances and the family status of the parties. This application was registered as I.A. No. 6052 of 2020.

6. The High Court took up the matter for consideration on 17.02.2021 and, after taking note of the submissions of the parties that they had resolved the marital discord and were residing together while enjoying a happy conjugal life, indeed observed that continuance of the proceedings might lead to disharmony but then, merely ordered modification of sentence to the period of imprisonment already undergone by the appellant while affirming his conviction. The High Court observed and directed as under:

“3. Heard. Taking into account that the petitioner- husband and the wife-opposite party No. 02 have amicably settled and resolved the material discord and are residing together and leading a happy conjugal life, therefore the probability cannot be ruled out that continuance of the proceeding might lead to bitterness and disharmony in the conjugal life causing bickering and acrimony between the husband and the wife.

A Thus, in the interest of justice and for ensuring that both the parties
continue to enjoy a happy conjugal life, the judgment dated 30/05/
2019, passed in Criminal Appeal No. 10 of 2019 by the learned
Sessions Judge, Gumla and the judgment dated 31/01/2019, passed
by the court of learned Judicial Magistrate, First Class, Gumla, in
B G.R. Case No. 904 of 2014 (T.R. No. 185 of 2018) are, hereby,
affirmed with modification of sentence. The petitioner is sentenced
to the period of custody already undergone by him.

4. In the result, I.A. No. 6052 of 2020 is, hereby, disposed off
with modification of the sentence as indicated above accordingly
the Criminal Revision is, hereby, disposed off.”

C 7. Having examined the matter in its totality, it appears that the
High Court, while disposing of the revision petition with the application
moved by the parties, did not pause to consider that maintaining of
conviction of the appellant of the offence under Section 498-A IPC would
not be securing the ends of justice and with such conviction being
D maintained and the appellant losing his job, the family would again land
itself in financial distress which may ultimately operate adverse to the
harmony and happy conjugal life of the parties. The learned counsel
appearing for the appellant and the respondent No. 2 both have reiterated
their stand that they have resolved their disputes and are living together
E while leading a happy conjugal life.

8. Taking note of the object of Section 498-A IPC, the expected
approach of the High Court in the event of *bona fide* settlement of
disputes had been duly exposted by this Court in the case of *B.S. Joshi
and Others v. State of Haryana and Another*: (2003) 4 SCC 675,
F where this Court has underscored the duty of the Court to encourage
the genuine settlement of matrimonial disputes and said as under: -

“12. The special features in such matrimonial matters are evident.
It becomes the duty of the court to encourage genuine settlements
of matrimonial disputes.

G 13. The observations made by this Court, though in a slightly
different context, in *G.V. Rao v. L.H.V. Prasad*, [(2000) 3 SCC
693 : 2000 SCC (Cri) 733] are very apt for determining the
approach required to be kept in view in a matrimonial dispute by
the courts. It was said that there has been an outburst of matrimonial
disputes in recent times. Marriage is a sacred ceremony, the main
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purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Penal Code, 1860 was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Penal Code, 1860.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.

16. For the foregoing reasons, we set aside the impugned judgment and allow the appeal and quash the FIR abovementioned.”

9. The same view has been reiterated by this Court in the case of *Bitan Sengupta & Anr. v. State of West Bengal & Anr.* : (2018) 18 SCC 366.

10. In the aforesaid view of the matter, and taking note of the terms of settlement as stated in the application moved before the High Court which include the undertaking of the appellant that he would be

A nominating the respondent No. 2 as the nominee in his service record; and where the parties are said to be leading a happy conjugal life, we are clearly of the view that the High Court should have accepted the settlement and quashed all the proceedings with annulment of the orders against the appellant. The High Court having not done so, we are inclined to adopt this course so as to secure the ends of justice.

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11. Accordingly, this appeal is allowed and while allowing I.A. No. 6052 of 2020 moved before the High Court in Criminal Revision No. 910 of 2019, all the proceedings arising out of the said FIR No. 204 of 2014 are quashed qua the appellant. Obviously, the order of conviction of the appellant is set aside.

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Nidhi Jain

Appeal allowed.