

RUCHI AGARWAL v. AMIT KUMAR AGRAWAL (*Hegde, J.*)

299

[CITED CASE 1]

(2005) 3 Supreme Court Cases 299

*a*

(BEFORE N. SANTOSH HEGDE AND S.B. SINHA, JJ.)

RUCHI AGARWAL

.. Appellant;

*Versus*

AMIT KUMAR AGRAWAL AND OTHERS

.. Respondents.

*b*

Criminal Appeal No. 1274 of 2004<sup>†</sup>, decided on November 5, 2004

*c*

**Constitution of India — Arts. 136 and 142 — Maintainability — Abuse of process of court — Family matter — Divorce petition — Conduct of appellant — Quashment of proceedings — Appellant and respondents entering into compromise, on basis whereof appellant obtaining divorce from R-1 who then withdrawing his petition under S. 9, Hindu Marriage Act, 1955 — Appellant, however, partially performing her part of compromise by withdrawing case filed under S. 125 CrPC but not withdrawing petition filed under Ss. 498-A, 323 and 506 IPC and Ss. 3 and 4, Dowry Prohibition Act, 1961, as agreed in said compromise — Appellant coming before Supreme Court in appeal on High Court having quashed said petition on ground of lack of territorial jurisdiction, and contending that said compromise had been obtained by coercion and under threats from respondents — Fact that while respondent had performed his part of compromise, appellant had partially performed her part and the fact that she had made a complaint in writing to Family Court where S. 125 CrPC proceedings were pending that said compromise was obtained by coercion and then had withdrawn said complaint, and obtained a divorce on basis of said compromise, held, indicate that criminal complaint from which this appeal arises was filed by appellant only to harass the respondents — In view thereof it would be an abuse of process of court if said criminal proceedings are allowed to continue — Hence, not only appeal dismissed, but said proceedings against respondents quashed — Constitution of India — Art. 136 — Interference in criminal matter — Quashment — Penal Code, 1860 — Ss. 498-A, 323 and 506 — Dowry Prohibition Act, 1961 — Ss. 3 and 4**

(Paras 8 and 9)

*f*

D-M/30781/CR

Advocates who appeared in this case :

Suman Kapoor, Rajesh Prasad Singh and Ms Ritu Jalali, Advocates, for the Appellant;  
Anurag Kr. Agarwal, Amit Bhasin and Sanjay Jain, Advocates, for the Respondents.

The Judgment of the Court was delivered by

**N. SANTOSH HEGDE, J.**— Heard learned counsel for the parties.

*g*

**2.** Leave granted.

**3.** By the impugned order, the High Court of Uttaranchal quashed a criminal complaint filed by the appellant against the respondents. The complaint was made by the appellant alleging offences under Sections 498-A, 323 and 506 IPC, and Sections 3 and 4 of the Dowry Prohibition Act.

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<sup>†</sup> Arising out of SLP (Crl.) No. 3769 of 2003. From the Judgment and Order dated 19-4-2003 of the Uttaranchal High Court at Nainital in Crl. MA No. 243 of 2002

The High Court by the impugned judgment came to the conclusion that the alleged offences having taken place within the jurisdiction of Ram Nagar Police Station of Bilaspur district, the court in Nainital Rampur district did not have the territorial jurisdiction to entertain the complaint, hence, while quashing the charge-sheet and the summoning order of the Chief Judicial Magistrate, Nainital, transferred the investigation of the case to Police Station Bilaspur, District Rampur. a

4. It is the above order of the High Court that is under challenge before us in this appeal. During the pendency of the proceedings before the courts below and in this Court, certain developments have taken place which have a material bearing on the merits of this appeal. The complaint which the appellant herein filed is dated 10-4-2002. Thereafter, a divorce petition was filed by the appellant wife before the Family Court at Nainital. In the said divorce petition a compromise was arrived at between the parties in which it was stated that the first respondent husband was willing for a consent divorce and that the appellant wife had received all her *stridhan* and maintenance in lump sum. She also declared in the said compromise deed that she is not entitled to any maintenance in future. It is also stated in the said compromise deed that the parties to the proceedings would withdraw all criminal and civil complaints filed against each other which includes the criminal complaint filed by the appellant which is the subject-matter of this appeal. The said compromise deed contains annexures with the particulars of the items given to the appellant at the time of marriage and which were returned. The said compromise deed is signed by the appellant. But before any order could be passed on the basis of the said compromise petition, the appellant herein wrote a letter to the Family Court at Nainital which was received by the Family Court on 3-10-2003 wherein it was stated that she was withdrawing the compromise petition because she had not received the agreed amount. But subsequently when her statement was recorded by the Family Court, she withdrew the said letter of 3-10-2003 and stated before the court in her statement that she wanted a divorce and that there is no dispute in relation to any amount pending. The court, after recording the said statement, granted a divorce under Section 13-B of the Hindu Marriage Act, dissolving the marriage by mutual consent by its order dated 3-3-2004. b  
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5. In the compromise petition, referred to hereinabove, both the parties had agreed to withdraw all the civil and criminal cases filed by each against the other. It is pursuant to this compromise, the above divorce as sought for by the appellant was granted by the husband and pursuant to the said compromise deed the appellant also withdrew Criminal Case No. 63 of 2002 on the file of the Family Court, Nainital which was a complaint filed under Section 125 of the Criminal Procedure Code for maintenance. It is on the basis of the submission made on behalf of the appellant and on the basis of the terms of the compromise, the said case came to be dismissed. However, so far as the complaint under Sections 498-A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act is concerned, which is the subject-matter of this appeal, the appellant did not take any steps to withdraw g  
h

a the same. It is in those circumstances, a quashing petition was filed before the High Court which came to be partially allowed on the ground of the territorial jurisdiction, against the said order the appellant has preferred this appeal.

b 6. From the above-narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received *stridhan* and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also undertook to withdraw all proceedings, civil and criminal, filed and initiated by her against the respondents within one month of the compromise deed, which included the complaint under Sections 498-A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

d 7. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13-B of the Hindu Marriage Act and in partial compliance with the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

e 8. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the abovementioned 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 CrPC 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.

302

SUPREME COURT CASES

(2005) 3 SCC

9. In view of the abovesaid subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash the proceedings arising from criminal case Cr. No. 224 of 2003 registered in Police Station Bilaspur (District Rampur) filed under Sections 498-A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.

[CITED CASE 2]

**(2005) 3 Supreme Court Cases 302**

(BEFORE N. SANTOSH HEGDE AND S.B. SINHA, JJ.)

MOHD. SHAMIM AND OTHERS

.. Appellants;

*Versus*

NAHID BEGUM (SMT) AND ANOTHER

.. Respondents.

Criminal Appeal No. 23 of 2005<sup>†</sup>, decided on January 7, 2005

**Constitution of India — Arts. 136 & 142 — Abuse of process of court — Quashing of criminal proceedings, held, justified on facts — FIR lodged by respondent wife against appellant husband and his family members after issuance of legal notice by appellant intimating that he had divorced the respondent — Case registered under Ss. 406/498-A/34 IPC — Application for grant of anticipatory bail filed by appellant — Parties governed by Muslim Law — Settlement arrived at between the parties before and on the intervention of Addl. Sessions Judge averring that out of the total amount of Rs 2,75,000 payable by appellant to respondent, Rs 2,25,000 had been paid to her and the balance amount of Rs 50,000 would be paid at the time of her making statement and entering no-objection for quashing of the FIR and that no dispute remained between the parties regarding payment of dower amount (mehar), dowry articles, etc. — Pursuant to the settlement, application purportedly under S. 482 CrPC filed by appellants before High Court for quashing of the FIR — Respondent, however, instead of complying with the averment made in the agreement as also in her affidavit, filed objections to the application contending that she was not aware of the contents of the agreement and the affidavit which were got signed by her by misrepresentation of facts — In view of the stand taken by the respondent, High Court took the view that there was no ground to interfere as respondent wanted to continue with her complaint and was not intending to compromise the matter — Held, denial of execution of the deed of settlement was an afterthought and cannot be accepted in view of the fact that the settlement was arrived at the intervention of a judicial officer of the rank of Addl. Sessions Judge — Ex facie, the settlement appears to be genuine — In view of conduct of the respondent, continuance of the criminal**

<sup>†</sup> Arising out of SLP (Crl.) No. 2051 of 2004. From the Judgment and Order dated 16-2-2004 of the Delhi High Court in Crl. MC No. 4161 of 2002