SUPREME COURT OF INDIA

Manohar Singh

Vs.

State of Madhya Pradesh

Crl.A.No.1498 of 2014

(Ranjana Prakash Desai and N.V. Ramana JJ.)

21.07.2014

JUDGMENT

(SMT.) RANJANA PRAKASH DESAI, J.

1. Leave granted.

2. The appellant is original Accused No. 3. He was tried along with his father Hukum Singh " original Accused No. 1 and his mother Prem Bai " original Accused No. 2 by the Judicial Magistrate, Dewas (Madhya Pradesh) in Crime Case No. 1680/2009 for offences punishable under Section 498A of the Indian Penal Code (for short, ˜the IPC) and Section 4 of the Dowry Prohibition Act, 1961 (for short, ˜the Dowry Act). By judgment and order dated 29/9/2010 learned Magistrate acquitted the appellant and the other two accused. Being aggrieved by this order the State of Madhya Pradesh preferred appeal in the Sessions Court, Dewas being Criminal Appeal No.12/2011. The Sessions Court set aside the order of acquittal and convicted the appellant and two others under Section 498-A of the IPC and sentenced them to undergo two years rigorous imprisonment each and to pay a fine of Rs.500/- each. For offence under Section 4 of the Dowry Act each of them was sentenced to rigorous imprisonment for two years and to pay a fine of Rs.500/- each, in default, to undergo simple imprisonment for two months each.

3. Being aggrieved by the said judgment and order, the accused carried criminal

revision to the High Court of Madhya Pradesh. The High Court by the impugned order set aside the conviction and sentence of original Accused Nos. 1 and 2 i.e. the father and mother of the appellant. The conviction of the appellant was, however, confirmed. His sentence was reduced to six months and fine of Rs.500/- on each count. Both the substantive sentences were to run concurrently. Being aggrieved by this judgment the appellant filed the present appeal.

4. On 21/1/2013 the appellant sought permission to implead the complainant i.e. his wife Reena as respondent No. 2. A statement was made that the appellant was willing to pay monetary compensation to his wife in lieu of substantive sentence of imprisonment. Permission to implead the complainant-wife Reena was granted. The appellant was directed to deposit Rs.25,000/- as litigation expenses. Respondent No. 2 was permitted to withdraw the said amount unconditionally. Subject to deposit, notice was issued to respondent No. 2 to consider whether the appellant can be asked to pay some suitable monetary compensation to respondent No. 2 in lieu of substantive sentence of imprisonment. On 24/3/2014 counsel for the appellant made a statement that the matter is likely to be settled. We directed respondent No. 2 " wife to remain present in the Court on 28/3/2014. Accordingly on 28/03/2014 she remained present in the Court. She stated that if the appellant pays her Rs.2,50,000/- (Rupees two lacs fifty thousand only) as compensation, she is ready to settle the matter. This Court, therefore, directed the appellant to bring a demand draft of Rs.2,50,000/- in the name of Reena (respondent No. 2). This Court noted that the said demand draft can be given to her in case after hearing the parties and considering the legal position, this Court permits settlement at this stage.

5. We have heard learned counsel for the appellant, learned counsel for the State of Madhya Pradesh and learned counsel for respondent No. 2. Learned counsel for the appellant and learned counsel for respondent No. 2 have requested the Court to show leniency in view of the settlement. Counsel for the State of Madhya Pradesh has opposed this prayer.

6. Section 498-A of the IPC is non-compoundable. Section 4 of the Dowry Act is also non-compoundable. It is not necessary to state that non- compoundable offences cannot be compounded by a Court. While considering the request for compounding of offences the Court has to strictly follow the mandate of Section 320 of the Code. It is, therefore, not possible to permit compounding of offences under Section 498-A of the

IPC and Section 4 of the Dowry Act. However, if there is a genuine compromise between husband and wife, criminal complaints arising out of matrimonial discord can be quashed, even if the offences alleged therein are non-compoundable, because such offences are personal in nature and do not have repercussions on the society unlike heinous offences like murder, rape etc. (See Gian Singh v. State of Punjab[2]). If the High Court forms an opinion that it is necessary to quash the proceedings to prevent abuse of the process of any court or to secure ends of justice, the High Court can do so. The inherent power of the High Court under Section 482 of the Code is not inhibited by Section 320 of the Code. Needless to say that this Court can also follow such a course.

7. In Narinder Singh v. State of Punjab[3], this Court was dealing with a situation where the accused was charged for offence punishable under Section 307 of the IPC, which is a non-compoundable offence. The parties arrived at a compromise at the stage of recording of evidence. A petition was filed under Section 482 of the Code for quashing of the proceedings in view of the compromise. The High Court refused to quash the proceedings. This Court set aside the High Court order and quashed the proceedings in view of the compromise. While doing so, this Court laid down certain guidelines. In Guideline No.(VII), this Court considered a situation where a conviction is recorded by the trial court for offence punishable under Section 307 of the IPC and the matter is at appellate stage. This Court observed that in such cases, a mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. This Court observed that in such cases where charge is proved under Section 307 of the IPC and conviction is already recorded of a heinous crime, there was no question of sparing a convict found guilty of such a crime. The observation of this Court must be read obviously in the context of a non-compoundable offence under Section 307 of the IPC. It is trite that a non-compoundable offence cannot be compounded at any stage (See Gyan Singh v. State of Punjab[4]). However, a compoundable offence can be compounded in view of a compromise, if the Court finds it proper to do so even after conviction if the appeal is pending.

8. In this case, the appellant is convicted under Section 498-A of the IPC and sentenced to undergo six months imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months imprisonment. Substantive sentences are to run concurrently. Even though the appellant and respondent No. 2-wife have

arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are non-compoundable. However, in such a situation if the court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498-A of the IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the Court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.

9. Now the question is whether a case for reduction of sentence is made out particularly when the appellant has undergone only seven days sentence out of six months sentence imposed on him. We see no reason why in this case we should not reduce the appellant sentence to sentence already undergone by him. There can be no doubt about the genuine nature of compromise between the appellant and respondent No.2-wife. The appellant has offered to pay a sum of Rs.2,50,000/- to respondent No.2-wife as compensation. A demand draft drawn in the name of respondent No.2 is brought to the Court. As directed by us even litigation costs of Rs.25,000/- has been deposited by the appellant in the Court. Respondent No.2-wife has appeared in this Court on more than one occasion and requested this Court to take compromise into consideration and pass appropriate orders. Learned counsel for the parties have requested us to take a kindly view of the matter. The affidavit filed by the State of Madhya Pradesh opposing the prayer of the parties does not impress us.

10. We must also note that the trial court had acquitted the appellant. Though the Sessions Court reversed the order and convicted the appellant for two years, the High Court reduced the sentence to six months. The appellant and respondent No.2 were married in 2007. About seven years have gone by. Considering all these circumstances, in the interest of peace and amity, we are of the opinion that the appellant sentence must be reduced to sentence already undergone by him.

11. In the circumstances, the appeal is partly allowed. The conviction of the appellant under Section 498-A of the IPC and under Section 4 of the Dowry Act is maintained but the sentence awarded to the appellant is reduced to sentence already undergone by him, subject to the condition that the appellant pays a sum of Rs.2,50,000/- (Rupees

two lacs fifty thousand only) to respondent No.2-wife as compensation. Impugned order stands modified to the above extent.

12. We must note that a Demand Draft in the sum of Rs.2,50,000/- drawn in the name of respondent No.2 Reena has been handed over to her counsel by learned counsel for the appellant on 18/7/2014.

13. In view of this, bail bond of the appellant, if any, stands discharged.