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GJPM010010052022



Criminal Appeal No. 25/2022
Order below compromise pursis at Exh.34.

Vinodbhai Himmatsinh Zala

vs.

The State of Gujarat

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1. Pending the criminal appeal, the parties hereto have preferred this compromise pursis, stating that they have amicably settled their dispute. It is also submitted by the parties that their relationship as husband and wife has ceased and they have amicably decided to part ways and lead their life independently as per their own wish. As of now, it is submitted that, there is no dispute whatsoever between the parties and it is also declared by the original complainant that she is willingly executing the compromise without any force or pressure. The compromise pursis is also signed by either parties and on the basis of the same, it is urged to dismiss the appeal.
2. Heard the Ld. Advocates representing either parties and perused the record and impugned judgment and order of conviction recorded by the Ld. Trial Court.

3. On perusal of the record, it transpires that the appellant/accused No.1, Vinodbhai Himmatsinh Zala, was held guilty of the offence U/sec. 498(A), 323 of I.P.C. as well as under Section 3, 7 of the Prevention of Dowry Act under the impugned Judgment and order of conviction dated 22.03.2022, passed by the Ld. Addl. Chief Judicial Magistrate, Shahera, in Criminal Case No. 447/2013, which is under challenge before me vide this criminal appeal and pending the appeal.
4. It is to be noted that the appellant has been convicted for the offence U/sec. 498(A), 323 of I.P.C. and U/sec. 3, 7 of Prevention of Dowry Act and they have submitted compromise pursis, pending the appeal, stating that they have amicably settled the dispute. However, it is pertinent to note that the offence U/sec. 498(A) of I.P.C. is non-compoundable offence, hence this court has no power to record the compromise.
5. In the case of ***Gian Singh vs. State of Punjab; (2012) 9 SCALE 257***, the Hon'ble Supreme Court has very categorically held that;

"The High Court may quash criminal proceedings pertaining to offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash

criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.

6. Even in the case of ***K. Srinivas Rao vs. D.A. Deepa (Civil Appeal No.1794 of 2013 arising out of Special Leave Petition (Civil) No. 4782 of 2007)***, the Hon'ble Supreme Court, following ***Gian Singh (supra)***, has held that;

"A High Court may quash the criminal proceedings initiated in pursuance of an FIR alleging the commission of an offence described in Section 498-A of the I.P.C., irrespective of the fact that such an offence is non-compoundable, if the parties reach an amicable settlement."

Thus, the law is well settled in this regard that in case of complete settlement and compromise arrived at between the parties in criminal proceedings pertaining to offence U/sec. 498-A of I.P.C., which is a non-compoundable offence, the power to quash the criminal proceedings lies only with the Hon'ble High Court.

7. Thus, in wake of the above reasons, as this court is not empowered to record the compromise arrived at by the parties, the following order is passed :

ORDER

1. The compromise pursis submitted by the parties, vide Exh.34, stands rejected.
2. No order as to costs.

Pronounced in the open Court today,
on this 28th day of January, 2025.

Dt.28.01.2025.
G O D H R A.

(Chandrapalsingh K. Chauhan)
Sessions Judge,
Panchmahals, at Godhra.
[UID Code No. GJ-00513]

Shyam Shankaran