

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICITON

CRIMINAL APPAL NO.713 OF 2013
(Arising out of SLP (Crl.) No.3180 of 2012)

HITESH KAPOOR & ORS.

Appellant(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

O R D E R

Heard.

Leave granted.

This appeal arises out of an order dated 28th March, 2012 passed by the High Court of judicature at Allahabad whereby Crl.Revision No.5734 of 2010 filed by the appellants herein against an order passed by the trial court in Complaint Case No.5239 of 2010 summoning the appellants for offences punishable under Sections 500 and 506 of Indian Penal Code, has been dismissed with a direction that in case the appellants appear and surrender before the Magistrate concerned and pray for bail their bail applications shall be heard and disposed of expeditiously.

When this matter came up before us on 8th May, 2012 we referred the parties to Mediation Centre, Supreme Court of India, to explore the possibility of an amicable settlement in regard to all outstanding matrimonial and other disputes between them. A settlement was accordingly attempted and finalised with the help of the Mediation Centre which fact was brought to our notice on 24th August, 2012 by learned counsel for both the parties. It was also submitted by learned counsel that the parties had agreed to part company for good by filing a joint petition under Section 13(B) of the Hindu Marriage Act. Learned counsel for the parties prayed that this Court could entertain a joint petition under Section 13(B) of the Act and pass a decree for dissolution of marriage. That prayer was declined by us for we felt that the proper course for the parties was to approach the competent court and seek appropriate orders from it.

When the matter came up again today, learned counsel for the parties pointed out that pursuant to the settlement arrived at between the parties with the help of Mediation Centre, joint petition, No.113 of 2012 under Section 13(B) of the Hindu Marriage Act seeking a decree of divorce by mutual consent was filed before the Additional District Judge, Karnal, which petition has since been allowed and a decree for divorce dissolving the marriage between the parties passed by mutual consent. Learned counsel for respondent no.2-wife has filed a certified copy of the order passed by the additional District Judge, Karnal, on a reading whereof it appears that the marriage between the parties has indeed been dissolved by mutual consent in terms of Section 13(B) of the Act with a direction that the parties shall be bound by the terms of the settlement arrived at between them.

Learned counsel for the parties now submits that in the light of the settlement and the subsequent development under which the marriage between the appellant no.2-Shweta and respondent no.2-Gaurav Dhooper stands dissolved, nothing really survive for consideration as all other outstanding disputes including criminal cases lodged by the parties against each other stand withdrawn, in the light of the settlement. They have in that regard drawn our attention to paras "6" to "8" of the settlement arrived at between them which read as under:

"6. The details of cases filed by the petitioners:-

(a) Case FIR No.713/2009 U/s 498A, 406,506 read with 34 IPC pending before the Civil Judge, Jr. Division, Karnal (Haryana) filed by the petitioners No.2 against the respondents.

(b) Case U/s 125 Cr.P.C. Titled "Shweta vs. Gaurav Dhooper" pending before Civil Judge, Jr. Division, Karnal (Haryana) filed by the Petitioner No.2 against the Respondent No.2.

(c) Present Special Leave Petition (Crl.) No.3180/2012 filed by the petitioners against the Respondents.

(7) The details of cases filed by the Respondents:-

(a) Crl.Complaint Case NO.5239/2010 U/s 500 and 506 IPC pending before Ld. ACJM, Third, Ghaziabad (U.P.) filed by respondents against the petitioners.

(b) Divorce Petition filed by the respondent no.2 against the petitioner no.2 at Ghaziabad (U.P.) titled "Gaurav Dhooper vs. Shweta Dhooper" which has been transferred by this Hon'ble Court and is now pending before Ld. A.D.J./A.S.J., Karnal (Haryana).

(c) Crl.Revision No.38/2012 against the order of interim maintenance pending before the Ld.A.D.J./A.S.J. Karnal(Haryana) filed by the respondent no.2 against the Petitioner no.2.

(d) Crl. Petition No.23607/2011 filed by the Respondent No.2 against the Petitioner No.2 in respect of Section 340 Cr.P.C. Pending in the High Court of Punjab and Haryana at Chandigarh.

8. Both the parties herein undertake to withdraw all the above pending cases and applications therein filed by them against each other before any court of law or any other forum."

They further state that except cases mentioned at paras 6(a) and 7(a), extracted above, all other cases stand withdrawn pursuant to the settlement. They pray that the cases mentioned at paras 6(a) and 7(a) of the settlement could be quashed by this Court in the light of the settlement to give quietus to the controversy leaving the parties free to start their lives afresh.

In the ordinary course we would have asked the parties to move the High Court for quashing the pending cases but keeping in view the peculiar facts and circumstances of the case in which all outstanding disputes between the parties have been resolved in terms of the settlement arrived at between them and the fact that a decree for divorce has also been passed between the parties by mutual consent pursuant to the said settlement, we do not see any reason to delay the closure of the remaining matters also. Interest of justice would, in our view, be sufficiently served if we allow the prayer made before us by counsel for both the parties and quash the proceedings arising from FIR No.713 of 2009 under Sections 498A, 406, 506 read with 34 IPC pending before the Civil Judge, Jr.Division, Karnal (Haryana) and Crl. Complaint Case No.5239 of 2010 under Section 500 and 506 IPC pending before A.C.J.M., Third, Ghaziabad (U.P.) filed by respondents against the appellants. We are, however, told that since respondent no.2-husband has to pay a sum of Rs.11,50,000/- (Rupees eleven lakh fifty thousand) towards remaining part of the alimony settled between the parties and other claims, the quashing of FIR No.713 of 2009 mentioned at para 6(a) of the settlement (supra) be made subject to such payment.

In the circumstances, therefore, and keeping in view the submissions made at the Bar, we dispose of the present appeal with the following directions:

- (1) Crl. Complaint Case No.5239 of 2010 under Section 500 and 506 IPC pending before A.C.J.M., Third, Ghaziabad (U.P.), shall stand quashed.
- (2) Subject to payment of Rs.11,50,000/- (Rupees eleven lakh fifty thousand) by respondent no.2-husband to appellant no.2-wife within a period of four weeks from today, FIR No.713 of 2009 under Sections 498A, 406, 506 read with 34 IPC registered at P.S. Civil Line, Karnal, and presently pending before the Civil Judge, Jr.Division, Karnal (Haryana), shall also stand quashed.
- (3) Parties to bear their own costs.

.....J.
(T.S. THAKUR)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

NEW DELHI
DATED 6th May, 2013.
ITEM NO.48

COURT NO.7

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).3180/2012

(From the judgement and order dated 28/03/2012 in CRLR No.5734/2010, of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

HITESH KAPOOR & ORS. Petitioner(s)

VERSUS

STATE OF U.P. & ORS. Respondent(s)

(With appln(s) for permission to place addl. documents on record, stay and for dissolve the marriage of the petitioner no.2 and respondent no.2 and also quash the cases between the parties and and office report)

Date: 06/05/2013 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Ms. Upasana Nath,Adv.
Mr. Rameshwar Prasad Goyal,Adv.

For Respondent(s) Mr. Mahesh Tiwari,Adv.
Mr. Bishnu Tiwari,Adv.
Dr. Kailash Chand,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The appeal is disposed of in terms of the signed order.

(Mahabir Singh)	(Veena Khara)	
Court Master	Court Master	

(Signed order is placed on the file)