

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).6294-6295/2009

(From the judgement and order dated 30/04/2009 in CRLM No. 9268/2009 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

VIVEK KUMAR & ORS. Petitioner(s)

VERSUS

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

(With appln(s) for exemption from filing c/c of the impugned Judgment,exemption from filing O.T.,directions,stay,permission to file additional documents and placing on record additional information and quashing the proceedings and office report)

Date: 26/07/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s)

Ms. Kamini Jaiswal,Adv.

For Respondent(s)

Mr. S.K. Aggarwal, Sr. Adv.
Mr. Sudhakar Dwivedi, Adv.
Mr. Rajesh Goyal,Adv.

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

Leave granted.

The appeal as well as all the pending applications stand disposed of in terms of the signed order.

(VINOD LAKHINA)
Court Master

(N.B.DHYANI)
Court Master

(SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1370-71 OF 2010
[Arising out of SLP (CRI.) NO. 6294-6295 OF 2009]

VIVEK KUMAR & ORS. ...APPELLANTS

VERSUS

STATE OF U.P. & ORS. ...RESPONDENTS

ORDER

Leave granted.

Challenge in this appeal, by special leave, is to the orders dated 30th April, 2009 and 10th July, 2009, passed by a learned single judge of the High Court of Judicature at Allahabad at Allahabad, dismissing the petition filed by the appellants under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code"), seeking quashing of two first information reports lodged against them under Sections 498A, 323, 504 and 506 of the Indian Penal Code, 1860 (for short "IPC"), and under the Dowry Prohibition Act, 1961 as also under Section 420 IPC. The learned judge had also issued certain directions with regard to the investigations in Case Crime No.887 of 2008 (State Vs. Vivek and others).

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...2/-

When the case came up for consideration on 24th August, 2009, with the consent of the parties, the matter was referred to the Delhi High Court Mediation Center to explore the possibility of an amicable settlement between them. On 15th January, 2010, it was brought to the notice of this Court that with the intervention of a Mediator, an amicable settlement between the parties had been arrived at. A copy of the settlement agreement dated 3rd December, 2009 was also received from the Mediation Center and it forms part of the Court's record. Since the terms of the said settlement required that a decree for divorce by mutual consent be passed, the parties were directed to

file an application under Section 13B of the Hindu Marriage Act, 1955 before the competent court at Ghaziabad, where some other proceedings were also pending.

Pursuant to and in furtherance of the said order, a petition for divorce by mutual consent (M.P. No. 65 of 2010) was filed in the Court of Civil Judge (Senior Division) Ghaziabad.

However,

at the request of the learned counsel for the parties, vide order dated 29th January 2010, the said petition was withdrawn to this Court.

...3/-

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On 18th March, 2010, appellant No.1 (husband) and respondent No. 3 (wife) were directed to appear before the Registrar (Judicial) of this Court for recording their statements in connection with the petition for divorce by mutual consent. The statements were recorded, whereby both of them have stated that they are interested in the divorce.

The matter has now been placed before us for final orders.

As already stated, the parties have amicably resolved their differences and terms of settlement between them have been incorporated in the Settlement Agreement dated 3rd December, 2009. From their statements, affirming the said settlement, it appears that the said settlement has been arrived at voluntarily and the mutual

consent has not been obtained by force, fraud or
by exercising undue influence. In the light of
the said agreement, we do not find any impediment
in the grant of divorce to them by mutual consent.

...4/-

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Accordingly, M.P. No. 65 of 2010 is
allowed and a decree of divorce between
appellant No.1 and respondent No. 3, by mutual
consent is hereby passed. In view of this order,
all criminal and civil proceedings pending between
the parties, in particular, criminal proceedings
arising out of F.I.R. No. 296 of 2008 dated 29th
May 2008 and F.I.R. No. 652 of 2008 dated 7th July,
2008 are quashed.

The appeal as well as all the pending
applications stand disposed of in the above terms.

....., J.
(D.K. JAIN)

....., J.
(H.L. DATTU)

NEW DELHI
JULY 26, 2010