

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).1256 OF 2012

ELANT(S) SALONI RUPAM BHARTIYA APP

VERSUS

PONDENT(S) RUPAM PRAHLAD BHARTIYA & ANR. RES

O R D E R

This appeal arises out of a judgment and order passed by the High Court of Bombay whereby the Criminal Revision

Application No.81 of 2011 filed by respondent no. 1-husband was partly allowed and while upholding his conviction under Section 498A of the Indian Penal Code, the sentence of imprisonment for a period of one year red

uced to  
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Vinod Kumar  
Date: 2015.08.18

12:00:33 IST  
Reason:

imprisonment till the rising of the Court besides a fine of Rs.1,00,000/- (Rupees One Lakh only). In default of payment of fine the respondent no. 1 was directed to

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undergo imprisonment for a period of six months. The High Court has also directed that out of the amount of fine deposited, the appellant-wife shall be paid a sum of Rs.90,000/- by way of compensation.

When the matter came up for hearing on 13.11.2014 and was argued at some length, learned counsel for the parties suggested that given an opportunity all outstanding issues between the parties could be amicably settled.

It was

submitted by learned counsel for the appellant-wife that a petition for dissolution of marriage was pending before the Family Court at Indore, which the respondent-husband herein appeared to be opposing. It was further submitted that the

couple had been blessed with a daughter aged about 12 years old, who is currently studying in a school at Indore.

Our

attention was also drawn to the fact that the court seized of the divorce petition had awarded maintenance in favour

of the appellant-wife and the daughter at the rate of Rs.15,000/- per month, which the respondent-husband had

been paying no matter a certain amount towards arrears of maintenance was outstanding. At the Bar it was suggested

by learned counsel for the parties that the parties had broadly agreed to a settlement on payment of a lumpsum amount of Rs.50,00,000/- (Rupees Fifty Lakh only) in favour

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of appellant-wife excluding the amount in arrears towards maintenance already awarded and paid.

The amount was to be

in full and final settlement of appellant-wife's claim for

her maintenance as also for the minor daughter of the couple, her education and marriage, right to shelter etc.

It was submitted that the parties were also agreeable to

filing a joint petition under Section 13B of the Hindu

Marriage Act, 1955 for dissolution of marriage by mutual

consent before a court of competent jurisdiction at Indore

in which event the couple could part for good, on a

satisfactory note, without anything to do with each other

in future.

The matter was accordingly adjourned to enable the

parties to explore the possibility of an amicable settlement and to report the same to this Court. When the matter came up again on 20.11.2014, a joint memorandum of understanding dated 19.11.2014 detailing all the terms and conditions subject to which the parties had agreed to resolve the matter was filed before us. The joint memorandum of understanding inter alia provided for filing a petition under Section 13B of the Hindu Marriage Act, 1955 for divorce by mutual consent on payment of a sum of Rs.50,00,000/- towards permanent alimony including maintenance, shelter, education, marriage of the minor daughter, out of which an amount of Rs.25,00,000/- was to be paid by way of a demand draft in the name of the appellant-wife at the time of filing of the petition under Section 13B for divorce by mutual consent while the remaining amount of Rs.25,00,000/- was to be paid at the time of signing and filing the petition for grant of second motion. The joint memorandum of understanding also stipulated that in the light of the amicable settlement, the conviction of the respondent-husband, as recorded by the courts below, could be set aside. The matter was, on that basis, adjourned till the month of July, 2015 to enable the parties to take steps in aid of the settlement.

When the matter again came up before us today learned counsel for the appellant-wife drew our attention to a decree passed by the Family Court at Indore in a joint petition filed under Section 13B of the Hindu Marriage Act, dissolving the marriage between the parties by mutual consent. A copy of the decree passed by the Family Court, Indore has been produced in the Court, which is taken on record. Learned counsel for the appellant-wife submitted that the appellant has already received the sum of Rs.50,00,000/-, in terms of the joint memorandum of

understanding and the terms and conditions already settled between the parties and that the said amount has been accepted by the appellant-wife in full and final settlement of her claims towards her maintenance and maintenance of the daughter as also right to shelter, education and marriage expenses of minor daughter, whose custody shall continue with her. It was submitted by learned counsel for the parties that in the light of the above subsequent developments especially the fact that the marriage between the parties itself stands dissolved by a decree passed by a competent court, nothing really remained between the parties to be addressed and that the conviction of the respondent-husband under Section 498A of the Indian Penal Code could be set aside. We see no reason to decline that prayer. In the circumstances, therefore, and in the light of the fact that the parties have successfully negotiated an amicable settlement sinking and resolving all their differences and disputes and finding a lasting solution on all the outstanding issues between themselves, we see no reason why the conviction recorded by the courts below and the sentence of imprisonment till the rising of the Court, which the respondent has already undergone should continue to blemish the respondent-husband. We accordingly set aside the judgment and order of conviction of the

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respondent under Section 498A of the Indian Penal Code.

The appeal is disposed of with the above observation.

Pending application(s), if any, shall also stand(s) disposed of.

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

.....J.  
(ADARSH KUMAR GOEL)

.....J.  
(R. BANUMATHI)

NEW DELHI,  
AUGUST 11, 2015

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ITEM NO.301

COURT NO.2

SECTION IIA

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

I N D I A

Criminal Appeal No(s). 1256/2012

SALONI RUPAM BHARTIYA

Appellant(s)

VERSUS

RUPAM PRAHLAD BHARTIYA & ANR

Respondent(s)

(With appln.(s) for stay and bail and office report)

Date : 11/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR  
HON'BLE MR. JUSTICE V. GOPALA GOWDA  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Niraj Sharma,Adv.

For Respondent(s) Mr. Aniruddha P. Mayee,Adv.

Mr. Shuvodeep Roy, Adv.  
Mr. Nishant R.K., Adv.

Mr. Maheen Pradhan, Adv.  
Mr. Niraj Gupta,Adv.  
Mr. Faraz Khan, Adv.

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

The appeal is disposed of in terms of signed order.

Pending application(s), if any, shall also stand(s)  
disposed of.

(VINOD KR.JHA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)