

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).7687/2010

(From the judgement and order dated 06/08/2010 in CRLMA No. 669/2010 of The HIGH COURT OF UTTARAKHAND AT NAINITAL)

SURINDER SINGH

Petitioner(s)

VERSUS

KAWAL PREET KAUR AND ANR.

Respondent(s)

(With appln(s) for stay, permission to file rejoinder affidavit)

Date: 24/08/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CYRIAC JOSEPH
HON'BLE MR. JUSTICE T.S. THAKUR

For Petitioner(s)

Mr. D.N. Goburdhan, Adv.
Mr. Pankaj Miglani, adv.
Mr. Prabal Bagchi, adv.
Mr. Lalit Miglani, adv.

For Respondent(s)

Mr. Sanjeev Sachdeva, Sr. Adv.
Mr. Preet Pal Singh, Adv.
Ms. Priya Puri, adv.
Mr. H.K. Puri, adv.
with respondent No.1 in person

Mr. S.S. Shamsbery, Adv.
Mr. Jatinder Kumar Bhatia, Adv.

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

Leave is granted to file the appeal.
Criminal Miscellaneous Petition No. 16390 of
2011 as well as the appeal stand allowed in terms of the
signed order.

(Sukhbir Paul Kaur)
Court Master

(Sharda Kapoor)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1665 OF 2011
(Arising out of S.L.P.(Crl.) No.7687 OF 2010)

SURINDER SINGH

Appellant(s)

Versus

KAWAL PREET KAUR AND ANR.

Respondent(s)

O R D E R

S.L.P.(Crl) No. 7687 of 2010 & CRL.M.P.NO.16390 OF 2011

We have heard learned counsel for the appellant, learned senior counsel for Respondent No.1 and learned counsel for the State-Respondent No.2.

Leave is granted to file the appeal.

The appellant is an accused in Criminal Case No. 1606 of 2010 titled State versus Surinder Singh Chawla under Section 498A and 504 of the Indian Penal Code (in short 'the IPC') pending before the Chief Judicial Magistrate, Dehradun.

The challenge in this appeal is against the order dated 6th August, 2010 passed by the High Court of Uttarakhand dismissing Criminal Application No. 669 of 2010 filed by the appellant under Section 482 of the Criminal Procedure Code (in short 'the Cr.P.C.') for quashing the proceedings in the above mentioned Criminal Case No. -2-

1606 of 2010 and also rejecting a Compromise Application No. 861 of 2010 filed by the parties before the High Court.

While dismissing the petition filed under Section 482 of the Cr.P.C., the High Court held that in its view, there was neither miscarriage of justice nor any abuse of process of the Court.

While rejecting the compromise application, the High Court observed that when the main condition in the written compromise terms remained unfulfilled, the Court could not allow the application for compromise.

Aggrieved by the rejection of the petition under Section 482 Cr.P.C. and the compromise application No. 861 of 2010, the appellant has filed this appeal.

While issuing notice in the Special Leave Petition on 22nd October, 2010, an interim order was

passed staying further proceedings before the Trial Court. It was also recorded that learned counsel for the appellant had brought a demand draft for Rs.5,50,000/- and it was directed that the said demand draft be deposited in the Registry of this Court. It is not in dispute that the said demand draft has been deposited in the Registry.

During the pendency of the Special Leave Petition, the petitioner and the complainant (Respondent No.1) have filed a joint application being

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Criminal Miscellaneous Petition No. 16390 of 2011 praying for the following reliefs :-

- (A) Direct the Registry of this Hon'ble Court to pay the sum of Rs.5,50,000/- along with accrued interest to Respondent No.1.
- (B) Quash the Criminal Case No. 1606 of 2010 titled as State versus Surinder Singh & Ors. pending in the Court of Chief Judicial Magistrate, Dehradun, Uttrakhand, filed under Section 498A and 504 IPC.
- (C) Quash the proceedings in Criminal Case No. 101 of 2009 titled Kawal Preet Kaur versus Amanpreet Singh & Ors. filed under Sections 12, 18, 19, 20 and 23 of the Protection of Women from Domestic Violence Act, 2005 pending in Dehradun; and
- (D) pass such other order/orders as it may deem fit and proper in the interest of justice.

In support of the application, the appellant as well as respondent No.1 have filed separate affidavits. The appellant and respondent No.1 are personally present in Court and stated that they have voluntarily and consciously entered into the compromise referred to in the above mentioned application.

Learned counsel for the appellant and learned senior counsel appearing for Respondent No.1 submitted

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that in the light of the compromise arrived at between the complainant and the accused and in view of the decisions of this Court in B.S. Joshi and Ors. versus State of Haryana and Anr. reported in 2003 (4) SCC 675; Madan Mohan Abbot versus State of Punjab reported in 2008 (4) SCC 582; Manoj Sharma versus State and Ors. reported in 2008(16) SCC 1 and this Court's Order in Transfer Petition(C) No. 1179 of 2008, the F.I.R. and proceedings in the Criminal Case No. 1606 of 2010 pending before the Chief Judicial Magistrate, Dehradun may be quashed. It is also submitted by the learned senior counsel appearing for Respondent No.1 that Respondent No.1 may be permitted to withdraw her complaint in Criminal Case No. 101 of 2009 under Sections 12, 18, 19, 20 and 23 of the Protection of Women from Domestic Violence Act, 2005 pending before the Court concerned in Dehradun and that the said criminal case may be treated as withdrawn. It is further stated by the learned counsel for Respondent No.1 that in view of the decree of divorce granted by the Court in Australia, the respondent No.1 may be permitted to withdraw the Divorce Case No. 71 of 2011 titled Kawal Preet Kaur versus Amanpreet Singh pending in the Family Court, Dehradun, Uttrakhand and that the said Divorce Petition may be treated as withdrawn.

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Learned senior counsel for Respondent No.1 further submits that in the light of the terms of compromise between the parties, the Registry may be directed to release to Respondent No.1 the amount of

the demand draft deposited by the appellant in the Registry along with the interest accrued thereon. It is also stated that, on such release of the amount, the claim of Respondent No.1 in the Application filed by her under Section 125 Cr.P.C. and pending in the Family Court, Dehradun titled Kawal Preet Kaur versus Amanpreet Singh shall stand satisfied and the application may be treated as withdrawn by Respondent No.1.

Having regard to the above facts and circumstances, we are satisfied that the compromise entered into between the parties is bona fide and genuine and that this is a fit case where this Court should invoke its power under Article 142 of the Constitution of India for doing complete justice and allow the prayers in Criminal Miscellaneous Petition No. 16390 of 2011 in the interest of justice.

Accordingly, the proceedings in Criminal Case No. 1606 of 2010 titled State versus Surinder Singh Chawla pending in the Court of the Chief Judicial Magistrate, Dehradun are quashed qua the appellant and

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all other accused persons. We direct that Case No. 101 of 2009 titled Kawal Preet Kaur versus Amanpreet Singh & Ors. filed by Respondent No.1 under Sections 12, 18, 19, 20 and 23 of the Protection of women from Domestic Violence Act, 2005 in the Court in Dehradun shall be treated as withdrawn by the complainant.

The Court concerned in Dehradun shall pass appropriate consequential orders in the matter. It is further

directed that the amount of the demand draft deposited by the appellant along with the interest accrued thereon shall be released to Respondent No.1 by the Registry of this Court, in full and final settlement of

her claim in the Application under Section 125 Cr.P.C.

pending in the Family Court, Dehradun.

Learned senior

counsel for Respondent No.1 submits that the above mentioned amount is being accepted by respondent No.1 in full and final settlement of all her claims against the appellant.

Divorce Case No. 71 of 2011 titled Kawal Preet Kaur versus Amanpreet Singh pending before the Family

Court, Dehradun shall stand withdrawn.

The Family

Court, Dehradun may pass appropriate

consequential

orders.

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Criminal Miscellaneous Petition No. 16390 of 2011 as well as the appeal stand allowed in the above terms.

.....J.
(CYRIAC JOSEPH)

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

New Delhi,
August 24, 2011