

:::BEFORE:::

HON'BLE MR. JUSTICE AJIT BORTHAKUR

07.02.2018

JUDGMENT & ORDER (ORAL)

Heard Mr. K. Saxena, learned counsel for the petitioner and Ms. M. Tang, learned Addl. Public Prosecutor appearing for the State of Arunachal Pradesh.

This is an application under Section 482 Cr.P.C., supported by an affidavit sworn by the petitioner No. 1 and an authority letter filed by the petitioner No. 2, praying for quashing of Charge-Sheet No. 05/2013, dated 15.07.2013, arising out of Itanagar Women P.S. Case No. 11/2013 under Sections 498A/325 IPC and the connected criminal proceeding in G.R. Case No. 259/2013 pending in the Court of learned Chief Judicial Magistrate, Papumpare District, Yupia, Arunachal Pradesh.

The petitioners' case, precisely, is that the petitioner No. 1 was the husband of the petitioner No. 2. The petitioner No. 2 lodged an FIR on 07.07.2013 before the Officer-in-Charge, Itanagar Women Police Station alleging that since marriage with the petitioner No. 1 in the year 2007, she was subjected to physical and mental torture and on 06.07.2013, she was physically assaulted by the petitioner No. 1, when she had raised objection for drinking of alcohol with friends. Based on the aforesaid FIR, Itanagar Women P.S. Case No. 11/2013 under Section 498A/325 IPC was registered against the petitioner No. 1 and on completion of investigation, the Investigating Officer filed Charge-Sheet No. 05/2013 under Sections 498A/323 IPC, dated 14.07.2013, in the Court of learned Chief Judicial Magistrate, Papumpare District at Yupia. Accordingly, the learned Chief Judicial Magistrate, Papumpare, Yupia registered G. R. Case No. 259/2013 and took cognizance of the offences as charge-sheeted. Thereafter, the petitioner No. 1, by filing an application under Section 239 Cr.P.C., prayed for discharge from the aforesaid G. R. Case No. 259/2013 on the grounds, *inter-alia*, that the

complaint, dated 07.07.2013, was an outcome of normal wear and tear of relationship and that in terms of mutual divorce, dated 06.07.2015, the petitioners had obtained a decree for mutual separation and dissolution of their marriage. However, the said learned Court below dismissed the application and framed charges against the petitioner No. 1 under Sections 498A/ 323 IPC and fixed the case on 05.02.2018 for prosecution evidence. According to the petitioners, as they have two minor children for whom both are jointly responsible for their healthy growth, and in the interest of their future, the petitioner No. 2 has decided to put an end to the criminal proceeding in G. R. Case No. 259/2013, aforementioned. The petitioners have further stated that continuation of the aforesaid criminal proceeding would not serve any useful purpose or would not be in the interest of justice. Hence, by filing the instant petition under Section 482 Cr. P.C., the petitioners have prayed for quashing of the Charge-Sheet No. 05/2013, dated 15.07.2013 and G.R. Case No. 259/2013, arising out of Itanagar Women P.S. Case No. 11/2013 under Section 498A/325 IPC pending in the court of learned Chief Judicial Magistrate, Papumpare, Yupia, Arunachal Pradesh.

Mr. K. Saxena, learned counsel for the petitioners relying upon the ratio of the judgment, rendered by the Supreme Court in B. S. Joshi & Ors.-vs-State of Haryana & Anr, reported in (2003) 4 SCC 675, submits that in the backdrop of the facts averred in the joint petition, the criminal proceeding referred to above may be quashed.

Ms. M. Tang, learned Addl. PP, submits that as no useful purpose will be served in continuing with the criminal proceeding, which has arisen out of matrimonial dispute and no conviction in the case be reached, it is in the interest of their children and maintaining cordial relation between the petitioners, although divorced, the petition may be allowed.

In B.S. Joshi's case (Supra), the Supreme Court observed that:-

"10 In State of Karnataka v. L. Muniswamy & Ors. [(1977) 2 SCC 699], considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this

wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature'.

In view of the facts averred by the petitioners in their above petition, it is seen that no useful purpose will be served, if the criminal proceeding is allowed to be continued when both the parties have expressed their unwillingness to continue with the same. In the backdrop of the facts, and the principle laid in B. S. Joshi's Case (Supra), this Court is of the considered opinion that there are strong reasons to hold that in the interest of justice and to avoid the abuse of the process of the Court and further, to do away with justice to both the petitioners and their minor children, the aforesaid case, which arose out of the matrimonial dispute needs to be quashed as prayed.

Accordingly, G. R. Case No. 259/2013 (corresponding to Itanagar Women P.S. Case No. 11/2013) under Section 498A/325 IPC is quashed as prayed.

With the above direction, this petition stands disposed of.

JUDGE

Talorn