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2018 PLRonline 1200

Supreme Court of India

*Before: Justice A. K. Sikri and Justice Ashok Bhushan*

**Bitan Sengupta v. The State Of West Bengal**

Criminal Appeal No. 487/2018

26.03.2018

**ipc s. 498a - Parties amicably settled the matter and the settlement between husband and wife, was even acted upon as the parties took mutual divorce on that basis - High Court should have accepted the settlement and compounded the offences. B.S. Joshi v. State of Haryana, 2003 PLRonline 0008, relied upon.**

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1. Leave granted.
2. Heard learned counsel for the parties.
3. The present Special Leave Petition has been preferred against the impugned judgment/final order dated 12.09.2017 passed by the High Court of Kolkata in Criminal revision Petition No.3400/2016.
4. It may be stated at the outset that on a written complaint from respondent no. 2 herein, Case No. 554 PS Durgapur was registered under Sections 498A, 406, 506 of the Indian Penal Code, 1860 (IPC) and Sections 3 & 4 of the Dowry Prohibition Act,1961 against the appellants. In the aforesaid complaint, the allegations against the appellants are that they demanded dowry from respondent no.2 and on non-fulfillment of demand, respondent no. 2 was assaulted and tortured by them. After completion of the investigation, chargesheet was filed in the Court against the appellants for the aforesaid offences and charges were framed. The learned Judicial Magistrate vide order dated 27.06.2014 found the appellants guilty of the offence under Section 498A of the IPC and directed appellant no.1 to undergo rigorous imprisonment for 1 year and simple imprisonment for 6 months to appellant no.2 and acquitted them for the other offences. Being aggrieved, the appellants filed appeal before the Sessions Court which was dismissed vide order dated 21.09.2016.
5. It is worthy to mention that during the pendency of the appeal before the Sessions Court, the appellants and respondent no. 2 arrived at a compromise and accordingly Memorandum of Understanding (MOU)dated 22.12.2015 was executed on the basis of which mutual divorce under Section 28 of the Special marriage Act was granted by the Additional District Judge, Durgapur in Mat. Suit No. 389/2015 on 04.04.2016.
6. The dismissal of the appeal was challenged by filing revision application before the High Court. The High Court vide impugned order dated 12.09.2017 concurred with the findings of the Sessions Court and dismissed the revision petition.
7. As per the appellants, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that respondent no.2 have no grievances whatsoever against the appellants and want both the appellants to get acquitted from the cases. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all

the complaints pending between them before the court.

8. In the aforesaid circumstances and going by the spirit of the law laid down by this Court in the case of [B.S. Joshi v. State of Haryana, 2003 PLRonline 0008](#), (2003) 4 SCC 675, we are of the opinion that the High Court should have accepted the settlement and compounded the offences. It is, more so, when the settlement between the parties, who were husband and wife, was even acted upon as the parties took mutual divorce on that basis.

9. We, accordingly, allow this appeal and set aside the order of conviction passed against the appellants.

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