CASE NO.:
Appeal (crl.) 1274 of 2004

PETITIONER:
Ruchi Agarwal

RESPONDENT:
Amit Kumar Agrawal & Ors.

DATE OF JUDGMENT: 05/11/2004

BENCH:
N.Santosh Hegde & S.B.Sinha

JUDGMENT:
J U D G M E N T

(Arising out of SLP(Crl.)No. 3769 of 2003)

SANTOSH HEGDE,J.

Heard learned counsel for the parties.

Leave granted.

By the impugned order, the High Court of Uttaranchal quashed a criminal complaint filed by the appellant against the respondents. The complaint was made by the appellant alleging offences under sections 498A, 323 and 506 IPC, and Sections 3 and 4 of the Dowry Prohibition Act. The High Court by the impugned judgment came to the conclusion that the alleged offences having taken place within the jurisdiction of Ram Nagar Police Station of Bilaspur district, the court at Rampur district did not have the territorial jurisdiction to entertain a complaint, hence, while quashing the chargesheet and the summoning order of the Chief Judicial Magistrate, Nainital, transferred the investigation of the case to Police Station Bilaspur, district Rampur.

It is the above order of the High Court that is under challenge before us in this appeal. During the pendency of the proceedings before the courts below and in this Court, certain developments have taken place which have a material bearing on the merits of this appeal. The complaint which the appellant herein filed is dated 10.4.2002. Thereafter, a divorce petition was filed by the appellant-wife before the Family Court at Nainital. In the said divorce petition a compromise was arrived between the parties in which it was stated that the first respondent-husband was willing for a consent divorce and that the appellant-wife had received all her Stridhan and maintenance in lump sum. She also declared in the said compromise deed that she is not entitled to any maintenance in future. It is also stated in the said compromise deed that the parties to the proceedings would withdraw all criminal and civil complaints filed against each other which includes the criminal complaint filed by the appellant which is the subject matter of this appeal. The said compromise deed contains annexures with the particulars of the items given to the appellant at the time of marriage and which were returned. The said compromise deed is signed by the appellant. But before any order could be passed on the basis of the said compromise petition, the appellant herein wrote a letter to the Family Court at Nainital which was received by the Family Court on 3.10.2003 wherein it was stated that she was withdrawing the compromise petition because she had not received the agreed amount. But

subsequently when her statement was recorded by the Family Court, she withdrew the said letter of 3.10.2003 and stated before the court in her statement that she wanted a divorce and that there is no dispute in relation to any amount pending. The Court, after recording the said statement, granted a divorce under Section 13-B of the Hindu Marriage Act, dissolving the marriage by mutual consent by its order dated 3.3.2004.

In the compromise petition, referred to herein above, both the parties had agreed to withdraw all the civil and criminal cases filed by each against the other. It is pursuant to this compromise, the above divorce as sought for by the appellant was granted by the husband and pursuant to the said compromise deed the appellant also withdrew Criminal Case No.63 of 2002 on the file of the Family Court, Nainital which was a complaint filed under Section 125 of the Criminal Procedure Code for maintenance. It is on the basis of the submission made on behalf of the appellant and on the basis of the terms of the compromise, said case came to be dismissed. However, so far as the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act is concerned, which is the subject matter of this appeal, the appellant did not take any steps to withdraw the same. It is in those circumstances, a quashing petition was filed before the High Court which came to be partially allowed on the ground of the territorial jurisdiction, against the said order the appellant has preferred this appeal.

From the above narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also undertook to withdraw all proceedings civil and criminal filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent- husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13(B) of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.

Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the

obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where Section 125 Cr.P.C. proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt.Rampur) filed under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.