THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Crl.P.M.P.Nos.12172 and 12173 of 2015

AND

CRIMINAL PETITION No.9835 of 2015

-

COMMON ORDER:

This criminal petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioners/A1 to A3 in C.C. No.478 of 2011 on the file of the court of XIII Additional Chief Metropolitan Magistrate, Hyderabad.

2. Crl.P.M.P.Nos.12172 and 12173 of 2015 are filed to permit second respondent–*de facto* complainant to compromise the matter with the petitioners/A1 to A3.

3. The petitioners and the second respondent are present. Mr.Sk.Rizwan Ali, learned counsel identified the petitioners. Mr.R.Dilip Kumar Jaiswal, learned counsel identified second respondent.

4. The second respondent in the open court submitted that she voluntarily entered into compromise with the petitioners at the advice of the elders. She further submitted that nobody compelled or forced her to enter into compromise with the petitioners. She also submitted that the first petitioner gave her demand draft bearing No.000402, dated 05.10.2015 for an amount of Rs.6,00,000/- (Rupees six lakhs only) drawn on Axis Bank. The offences under Sections 498A and 406 IPC are compoundable with permission of the court whereas Sections 4 and 6 of Dowry Prohibition Act are non-compoundable.

5. In **Shiji alias Pappu v Radhika**, the Supreme Court held as under:

> "It is manifest that simply because an offence is not compoundable under Section 320 CrPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 CrPC. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 CrPC on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences

> are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 CrPC are not for that purpose controlled by Section 320 CrPC."

6. In **Gian Singh v State of Punjab**, the apex Court observed as under:

> "…….. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

7. Taking into consideration the factum of settlement arrived at between the parties, this court is of the view that even if the proceedings are allowed to continue, the second respondent may not support the case of the prosecution. No purpose will be served in keeping the matter pending in view of the settlement arrived at between the parties.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered opinion that it is a fit case to quash the proceedings.

9. In the result, Crl.P.M.P.Nos.12172 and 12173 of 2015 are ordered. Consequently, the criminal petition is allowed, quashing the proceedings against the petitioners/A1 to A3 in C.C. No.478 of 2011 on the file of the court of XIII Additional Chief Metropolitan Magistrate, Hyderabad. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J.

November 25, 2015.

YS