

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION M.P. No.4218 OF 2015

AND

Crl. P. No.3638 of 2015

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COMMON ORDER:

The instant petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') requesting to quash the proceedings in C.C. No.236 of 2010 on the file of the learned VII Metropolitan Magistrate, Cyberabad at Hayathnagar, for the offence punishable under Section 498-A of the Indian Penal Code (for short, 'the I.P.C') and under Sections 3 and 4 of the Dowry Prohibition Act. The petitioner herein is A.1 in the said calendar case.

2. The learned counsel for petitioner submits that the parties have entered into compromise and reduced the terms into writing by way of entering into a Memorandum of Understanding (for short, 'the M.O.U') and filed Criminal Petition M.P. No.4218 of 2015 under Section 320 of the Code. The learned counsel further submits that the parties intend to settle the other matter, which is a divorce petition seeking dissolution of their marriage by grant of decree of divorce, but concerning the offence herein the proceedings in the above said C.C. are sought to be quashed. He submits that the relevant clause is incorporated as clause 3 of the said M.O.U. He further submits that, though, the offence under Section 498-A of I.P.C. is compoundable and the offence punishable under Sections 3 and 4 of the Dowry Prohibition Act are non-compoundable, in view of the decisions of Hon'ble Supreme Court in **Gian Singh v. State of Punjab and another** and in **Manohar Singh v. State of Madhya Pradesh and another**, this Court is competent to record the compromise for the offence punishable under Section 498-A of I.P.C. and under Sections 3 and 4 of the Dowry Prohibition Act in a quash petition laid under Section 482 of the Code. The learned counsel drawn the attention of this Court to the observations of the Hon'ble Supreme Court contained in paragraph Nos.5, 57 and 61 in **Gian Singh's** case (1 Supra) and in paragraph No.6 in **Manohar Singh's** case (2 Supra). As seen from the legal principles laid down in the above said decisions, it is clear that the inherent power of the High Court

under Section 482 of the Code is not inhibited by Section 320 of the Code. In **Manohar Singh's** case (2 Supra), the Hon'ble Supreme Court was dealing with the offences punishable under Section 498-A of I.P.C, which is non-compoundable in other States, but in our State it is made compoundable by insertion of provision of Section 498-A of I.P.C in Section 320 of the Code.

Part 2 of Section 320 of the Code is thus:

“The women subjected to cruelty: Provided that a minimum period of three months shall elapse from the date of request or application for compromise before a Court and the Court can accept a request for compounding an offence under Section 498A of the Indian Penal Code, 1860, provided none of the parties withdraw the case in the intervening period.”

The offence punishable under Section 4 of the Dowry Prohibition Act is non-compoundable. The Hon'ble Supreme Court while observing that if there is a genuine compromise between husband and wife, criminal complaints arising out of matrimonial discord can be quashed, even if the offences alleged therein are non-compoundable, since such offences are personal in nature and do not have repercussions on the society, unlike heinous offences like murder, rape etc., dealt with the inherent power of the High Court under Section 482 of the Code as referred to above. When the inherent power of the High Court under Section 482 of the Code is not inhibited by Section 320 of the Code, the minimum period of three months provided in Section 320 of the Code would not come in the way in recording compromise between the parties.

3. Both parties are present. They moved Criminal Petition M.P.No.4218 of 2015, under Section 320 of the Code, to quash the proceedings in C.C. No.236 of 2010. Both parties have filed their respective affidavits, and a joint memo, is also filed by both parties, signed by their respective counsel, along with the M.O.U, wherein clause '3' was incorporated so far as the offences herein are concerned.

4. Permission is granted to the parties to compound the offences by recording of compromise.

5. Criminal Petition M.P.No.4218 of 2015 is ordered, and consequently Criminal Petition No.3638 of 2015 is allowed. The proceedings in C.C. No.236 of 2010 on

the file of the learned VII Metropolitan Magistrate, Cyberabad at Hayathnagar, are hereby quashed in the light of joint memo filed by the parties.

As a sequel thereto, miscellaneous applications, if any, pending in the criminal petition, stand disposed of.

A. SHANKAR NARAYANA, J

Date: **23.04.2015**

MVA

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Dt. 23.04.2015

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