

HONOURABLE MRS JUSTICE ANIS

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CRIMINAL M.P. No.3858 OF 2015

IN/AND

CRIMINAL PETITION No.2687 OF 2015

COMMON ORDER:

This Criminal Petition is filed by the petitioners - A1 and A2 under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings against them in C.C.No.337 of 2011 on the file of the

II Additional Chief Metropolitan Magistrate, Vijayawada, which was taken on file for the offences punishable under Sections 498-A, 406, 420, 120-B and 506 read with 34 IPC of the Indian Penal Code, 1860 (for short 'IPC').

The petitioners and the 1st respondent - *de facto* complainant are present. The petitioners produced Electoral Card and Pan Card, respectively, and the 1st respondent produced her Passport issued by the Government of India, which show their identity. They are identified by their respective counsel. The petitioners and the 1st respondent filed a joint compromise memo, wherein it was stated that they have amicably settled the matter and have agreed to withdraw the civil and criminal cases to maintain cordial relationship between them. The 1st respondent - *de facto* complainant also stated that she does not have any grievance against the accused and she has no objection to quash the proceedings against the petitioners in C.C. No.337 of 2011 on the file of the II Additional Chief Metropolitan Magistrate, Vijayawada. The contents of the compromise memo are read over to both the parties. Both the parties have agreed for the contents of the compromise memo.

The offences alleged are punishable under Sections 498-A, 406, 420, 120-B and 506 read with 34 IPC. No doubt, the offence punishable under Section 498-A IPC is not compoundable, but in *Gian Singh Vs. State of Punjab and another*, the Hon'ble Supreme Court held thus (para 57):

"The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences

Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. 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.”

In view of compromise, the chance of conviction is bleak and remote. Therefore, in view of the fact that the matter has been amicably settled between the parties and the offences alleged against petitioners are compoundable, there is no impediment to quash the proceedings against the petitioners.

Accordingly, CrI.M.P.No.3858 of 2015 is ordered by compounding the offences. Consequently, the Criminal Petition is allowed, quashing the proceedings against the petitioners - A1 and A2 in C.C.No.337 of 2011 on the file of the II Additional Chief Metropolitan Magistrate, Vijayawada. Miscellaneous Petitions, if any, pending

in this Criminal Petition shall stand closed.

ANIS, J

April 16, 2015

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