

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16290 OF 2016

ORDER:

This Criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings against the petitioners in C.C. No.166 of 2016 pending on the file of XIV Metropolitan Magistrate, Cyberabad, at L.B. Nagar, on the ground that continuation of the proceedings is an abuse of process of the court in view of settlement arrived between the parties before the Principal Judge, Family Court, Bangaluru, in M.C. No.4031 of 2015 filed by the second respondent herein.

During hearing, Sri P.Prabhakar Reddy, learned counsel for the petitioners, contended that as per the terms of Memorandum of Settlement filed under Section 89 of C.P.C. before the IV Additional Principal Judge, Family Court, Bangalore, in M.C. No.4031 of 2015, the second respondent has to co-operate with the petitioner in closing C.C. 166 of 2016, which is pending before the XIV Additional Metropolitan Magistrate Court, L.B. Nagar, Telangana State and in the event the said C.C. No.166 of 2016 is not closed for any reason the petitioner herein is at liberty to file a petition for quashing the said case before the High Court of Telangana and the respondent herein agrees to cooperate in getting the case closed. She also received Rs.7,00,000/- by way of demand draft bearing No.509887 dated 25.08.2016 drawn on ICICI Bank in lieu of final settlement of all claims against the petitioner therein.

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Though the second respondent was served with notice in this criminal petition, she did not appear either in person or through any counsel

As seen from the terms of settlement filed before the IV Additional Principal Judge, Bangalore, the second respondent agreed to close the complaint in C.C. No.166 of 2016 pending before the XIV Metropolitan Magistrate, at L.B. Nagar, Cyberabad. But conveniently after obtaining divorce by mutual consent before the IV Additional Principal Judge, Bangalore, she refused to cooperate with the petitioner herein to close the proceedings in C.C. No.166 of 2016. Such action would amount to abuse of process of court and this view is fortified by the Apex Court Judgment in **RUCHI AGARWAL v. AMIT KUMAR AGRAWAL AND OTHERS**¹. In paragraph 8 of the said Judgment, as per the facts of the above case, the parties entered into compromise reducing the terms of settlement before the Judge, Family Court, and one of the terms was to drop further proceedings in pending Criminal Cases and obtained divorce. Therefore, the Apex Court is of the view that the appellant having received the relief, she wanted to contest on the basis of terms of compromise, the court did not accept the argument of learned counsel for the appellant and the conduct of the appellant indicates from which this appeal arises was filed by the wife only to harass the respondents and quashed the proceedings.

The facts of the above judgment are almost identical to the present facts in all respects except varies entrustment of

¹ (2005) 3 SCC 299

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payment of money etc. Thus the principle laid down in the above Judgment is directly applicable and thereby the proceedings in C.C.No.166 of 2016 pending on the file of XIV Metropolitan Magistrate at L.B. Nagar, Cyberabad are liable to be quashed, since continuation of such proceedings is nothing but an abuse of process of the court, to wreak vengeance against the petitioner in view of guideline No.7 laid down by the Apex Court in **STATE OF HARYANA v. BHAJANLAL**².

Accordingly, the criminal petition is allowed quashing the proceedings against the petitioners in C.C. No.166 of 2016 pending on the file of XIV Metropolitan Magistrate at L.B. Nagar, Cyberabad.

Miscellaneous petitions, if any, pending in these criminal petitions shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 15.12.2016
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² 1992 SUPP (1) SCC 335