

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Crl.A.M.P.No.1587 of 2017
AND
Criminal Appeal No.1030 of 2010

JUDGMENT:

This Criminal Appeal is filed by the appellants/accused Nos.1 to 3 under Section 374 (2) of Cr.P.C., aggrieved by the Judgment, dated 10.08.2010, in S.C.No.164 of 2009 passed by the V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad.

2. Crl.A.M.P.No.1587 of 2017 is filed to permit the petitioner-*de facto* complainant to compromise the matter with respondents 1 to 3/accused Nos.1 to 3.

3. The appellants and the *de facto* complainant are present. Sri N.Gangadhar, Advocate, representing Sri S.Ashok Anand Kumar, learned counsel identified the appellants. Sri N.Mukund Reddy, learned counsel identified the *de facto* complainant.

4. The *de facto* complainant in the open court submitted that he voluntarily entered into compromise with the appellants. A perusal of the record reveals that the appellants along with other accused faced the trial in S.C.No.164 of 2009 on the file of the Court of V Additional Metropolitan Sessions Judge, Mahila Court, Hyderabad, for the offences punishable under Sections 498-A and 304-B of IPC and Section 3 of the Dowry Prohibition Act. After full-fledged trial, the learned Sessions Judge, while acquitting appellants for the offence punishable under Section 304-B of IPC and Section 3 of the Dowry Prohibition Act, convicted them for the offence under Section 498-A of IPC and sentenced to undergo simple imprisonment for two years and to pay fine of Rs.1,000/- each, in default of payment

of the fine amount, to undergo simple imprisonment for one month each. Accused Nos.4 to 6 were found not guilty for the offences under Sections 498-A and 304-B of IPC and Section 3 of the Dowry Prohibition Act and accordingly, they were acquitted for the said offences.

5. Feeling aggrieved by the conviction and sentence imposed by the learned Sessions Judge, accused Nos.1 to 3 preferred the present appeal.

6. It appears at the stage of the appeal, the parties have amicably settled the matter outside.

7. In **Shiji alias Pappu v Radhika**¹, 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.”

8. In **Gian Singh v State of Punjab**², 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

¹ (2011) 10 SCC 705

² (2012) 10 SCC 303

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.”

9. Taking into consideration the factum of settlement arrived at between the parties, this court is of the view that in view of the amicable settlement arrived at between the parties, they are allowed to compromise the matter.

10. 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 view that it is a fit case to record the compromise and acquit the appellants/accused Nos.1 to 3.

11. In the result, CrI.A.M.P.No.1587 is ordered. Consequently, the Criminal Appeal is allowed, setting aside the conviction and sentence imposed against the appellants–accused Nos.1 to 3 for the offence punishable under Section 498-A IPC in S.C.No.164 of 2009 on the file of the Court of V Additional Metropolitan Sessions Judge, Mahila Court, Hyderabad. Accordingly, the appellants-accused Nos.1 to 3 are acquitted for the offence punishable under Section 498-A of IPC. The bail bonds executed by them shall stand closed. Miscellaneous petitions, if any pending in the criminal appeal, shall stand closed.

T.SUNIL CHOWDARY, J

July 31, 2017
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HON'BLE SRI JUSTICE T.SUNIL CHOWDARY



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Date:31.07.2017

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