

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION M.P. No.308 OF 2017

IN/AND

CRIMINAL PETITION No.323 OF 2017

COMMON ORDER

Petitioner Nos.1, 2 and 5 except petitioner Nos.3 and 4 and their learned counsel are present. Respondent No.2 - *de facto* complainant and her learned counsel are also present. The parties are identified by their respective learned counsel.

The learned counsel for the petitioners states that petitioner No.4 delivered a child three or four days back and could not attend the Court; but there is no convincing reason as to the absence of petitioner No.3 except stating that she is in her in-laws house.

Petitioner No.1 is the husband of respondent No.2 - *de facto* complainant; petitioner No.2 is her mother-in-law; and petitioner Nos.3 to 5 are her sisters-in-law.

Respondent No.2 - *de facto* complainant filed CrI.P.M.P. No.308 of 2017 along with her affidavit and joint memo signed by both the parties and their respective counsel, seeking to record compromise and to quash the proceedings in C.C. No.179 of 2015 on the file of the learned XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad, as per the terms of joint memo.

Perused the affidavit and the joint memo filed by both the parties.

Since the compromise has been entered into and the signatures of both the parties have been identified by their respective learned counsel, and even the parties have affirmed the contents of joint memo, and offence punishable under Section 498A IPC is also made compoundable with a rider of waiting period of three months, there is every reason to record the compromise and quash the proceedings by allowing the present Criminal Petition.

In view of the above circumstances and relying on the decision of the Hon'ble Supreme Court in **B.S. Joshi and others v. State of Haryana and another**¹; wherein it was held that when matters are resolved either by wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof both sides approach the High Court and jointly pray for quashing of the criminal proceedings of the First Information Report or complaint filed by the wife under Sections 498A and 406 IPC, the prayer cannot be declined on the ground that since the offences are not compoundable, and the Hon'ble Supreme court while emphasizing the power under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code') finding fault with the High Court, held that the High Court can exercise its inherent power and quash the criminal proceedings or first information report or complaint and the provisions of Section 320 of the Code do not

¹. AIR 2003 SC 1386 (1)

limit the power under Section 482 of the Code; Criminal Petition M.P. No.308 of 2017 is allowed.

Consequently, the present Criminal Petition is allowed quashing the proceedings against the petitioners in C.C. No.179 of 2015 on the file of XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad. The joint memo filed by the parties shall form part of the record. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

January 31, 2017.
Mgr

A. SHANKAR NARAYANA, J

