

HONOURABLE SRI JUSTICE N. BALAYOGI

I.A. No.1 OF 2018
IN/AND
CRIMINAL PETITION No. 1907 OF 2011

COMMON ORDER:

1. Criminal Petition No.1907 of 2011 is filed under Section 482 Cr.P.C. seeking to quash the proceedings in SC.No.215 of 2010 on the file of learned IX Additional District Judge, L.B.Nagar, Ranga Reddy District.

2. It is contended by learned Counsel for the petitioner that the allegations levelled against the petitioner do not constitute any of the offences alleged under Sections 498(A), 307, 354 and 506 IPC and that the FIR No.417 of 2008 dated 20.04.2008 was never in existence as the computer scanning shows the date and time of report as 21.4.2008 at 11.37 AM and hence the charge based on such nonexisting FIR is liable to be quashed. It is submitted that after handing over the investigation, the Inspector of Police, Saroornagar has no authority to record the statements of witnesses. The charge sheet is vague and do not constitute offences alleged under Sections 498(A), 307, 354 and 506 IPC. It is further contended that the second respondent/de facto complainant filed OP.No.83 of 2008 and obtained *ex parte* divorce.

3. While pending adjudication of the criminal petition, the petitioner filed I.A.No.1 of 2018 under Section 320 (2) read with Section 482 Cr.P.C. seeking to permit him to compound the offences and quash the proceedings in SC.No.215 of 2010 pending adjudication on the file of learned IX Additional District Judge, RR District.

4. The second respondent/de facto complainant and her counsel as well as the petitioner and his counsel are present. Perused the record.

5. Pertinent to note, among the offences alleged against the petitioner herein, offences under Sections 498(A) and 307 IPC are non compoundable. The joint memo filed by both the parties is accompanied by the affidavit of de facto complainant wherein it is stated that basing on her complaint, a case in Crime No. 417 of 2008 was registered against the petitioner for the offences punishable under Sections 498-A, 307, 354 and 506 IPC and after filing the charge sheet, offences alleged were taken cognizance of by the trial Court and the same was committed to the Sessions Court whereat it is numbered as SC.NO. 215 of 2010 and the same is pending adjudication. Against the same, the petitioner who is no other than the husband of the de facto complainant/Second respondent filed present Criminal Petition

seeking to quash the aforesaid proceedings. It is further stated that she (second respondent) filed OP.No.83 of 2008 seeking divorce from the petitioner and the same was decreed *ex parte* and since then she is living separately with her children who have completed their bachelor degree in Medicine and Engineering. While so, on 6.2.2017 the petitioner/accused suffered Posterior Wall Myocardial Infarction (MI) for which a stent was placed in the major vessel which supplies blood to heart and he is also suffering with neurological and ophthalmic problems. In view of his health condition, she has decided to withdraw the criminal proceedings as it is not her intention to see him punished and to make suffer. So also, the petitioner/accused, who is her husband, assured to her and her children that he will not file any other case or create any further litigation as he did in the past. In view of his health condition as well as his assurance and for the sake of children, the second respondent agreed to compound the offences.

6. In the case of ***NARINDER SINGH AND OTHER Vs. STATE OF PUNJAB AND ANOTHER*** {(2014)6 SCC 466} the Apex Court in the context of the facts and circumstances therein observed that:

“When we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important consideration. *The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a*

minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. We, taking all these factors into consideration cumulatively, are of the opinion that the compromise between the parties be accepted and the criminal proceedings arising out of FIR No.121 dated 14.7.2010 registered with Police Station LOPOKE, District Amritsar Rural be quashed. We order accordingly.”

7. In the instant case, the de facto complainant/second respondent and petitioner are wife and husband. There were some disputes and their children are graduates in medicine and engineering. Based on the complaint lodged by the second respondent against the petitioner, a case in Crime No.417 of 2008 was registered for the offences punishable under Sections 498-A, 307, 354 and 506 IPC. After filing the charge sheet, the case was committed to sessions Court and it was numbered as SC.No.215 of 2010 and the same is pending adjudication on the file of learned IX Additional District Judge, Ranga Reddy District. Against the taking cognizance of offences, the petitioner herein, who is the accused and husband of the second respondent filed Criminal Petition No. 1907 of 2011 before this Court seeking to quash the proceedings in SC.No.215 of 2010. While pending adjudication of the criminal petition, there was a compromise

entered into between the petitioner and second respondent. They have also filed certificate of marriage dated 03.03.2018 according to which the petitioner and second respondent were remarried on 01.03.2018 and the same was registered with the Sub Registrar, Golconda, Hyderabad. In the compromise petition, it is clearly asserted that the two children of the petitioner and second respondent have completed their respective graduations in medicine and engineering and that on 6.2.2017 the petitioner/accused suffered Posterior Wall Myocardial Infarction (MI) for which a stent was placed in the major vessel which supplies blood to heart and he is also suffering with neurological and ophthalmic problems. In view thereof, both i.e. petitioner and second respondent are now coming forward to settle their disputes by way of compromise.

8. The facts in the case on hand are thus clearly attract the decision of the Apex Court in *NARINDER SINGH* (supra). In the case on hand also, trial has not yet started. Since the parties have compromised, they will not enter into witness box to give evidence in support of prosecution case. In view thereof, chances of recording conviction appears to be remote.

9. No doubt there are serious allegations in the charge sheet that the petitioner threatened the second respondent and her brother with dire consequences stating that he will kill them

and also he will kill the persons who come to their rescue. Accordingly apprehending danger to her life and also life of his brother and others, the second respondent lodged a complaint against her own husband, petitioner herein. However, having regard to conciliation took place between the parties, the de facto complainant herself stated in the accompanying affidavit that in the interest of children and on the assurance of the petitioner, as stated supra, there was a compromise. Consequently there was reunion in between them and they remarried. Though the offence alleged against the petitioner under Section 307 is a serious crime, which is generally treated as crime against society, in view of compromise entered into, there is no possibility of convicting the petitioner/accused and chances of conviction therefore appears to be remote and bleak. The settlement arrived at by both the parties is going to result in harmony between them which may improve their future relationship, which will also result in share of love and affection to their children and also made their future relationship strengthen.

10. I have gone through the FIR, charge sheet, material on record, the affidavit of the de fact complainant and joint memo of compromise which give an indication that because of some differences between the petitioner and second respondent, a criminal complaint was lodged by the second respondent/wife against the petitioner/husband. The compromise entered into between the wife and husband in the interest of their children and

more particularly keeping in view health condition of the petitioner, it has become important aspect. Evidence is yet to be led in the Court. It is not even started. In view of the compromise between the wife/second respondent and husband/petitioner, there is minimal chance of the witnesses coming forward in support of the prosecution case. The allegation of threat to kill and apprehension of danger to the life from the hands of the petitioner is yet to be established by producing corroborative and supporting evidence, but it may become difficult to prove allegations levelled against the petitioner for the offences punishable under Sections 498-A, 307, 354 and 506 IPC. The chances of conviction therefore appear to be remote. It would therefore be unnecessary to drag these proceedings in view of the settlement arrived at between the parties. Taking all these factors into consideration, cumulatively, I am of the opinion that the compromise between the parties be accepted and the criminal proceedings arising out of FIR No.417 of 2008 be quashed.

11. Accordingly I.A.No.1 of 2018 is allowed in view of the compromise arrived at between the petitioner/accused and second respondent/de facto complainant and thereby the petitioner is permitted to compound the alleged offences against him.

12. Consequently, Criminal Petition is allowed while quashing the proceedings in SC.No.215 of 2010 on the file of

learned IX Additional District Judge, L.B.Nagar, Ranga Reddy District.

13. Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 13th March, 2018.
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