

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

I.A.No.2 of 2018 in Crl.P.No.2206 of 2018

and

Crl.P.No.2206 of 2018

COMMON ORDER:

The *defacto* complainant and her counsel Sri K.R.Koteswara Rao are present. Accused No.1 and his counsel Sri Katta Sudhakar are present. Both the parties are identified by their respective counsel.

- 2) Heard both sides and perused the petitions.
- 3) The *defacto* complainant filed a complaint and the same was registered as Crime No.318 of 2013 of Visakhapatnam III Town PS and after investigation charge sheet was filed against A1 to A4 and case was registered as C.C.No.757 of 2013 on the file of I Additional Chief Metropolitan Magistrate, Visakhapatnam.
- 4) At this stage, A1 filed Crl.P.No.2206 of 2018 before this Court to quash the proceedings against them in C.C.No.757 of 2013.
- 5) Pending the Criminal Petition, both parties filed I.A.No.2 of 2018 seeking permission of this Court to compound the C.C.No.757 of 2013. In the said I.A, it was mentioned that both parties have amicably settled all their disputes at the intervention of elders and all the cases pending between them were already settled and *defacto* complainant and A1 obtained divorce by mutual consent in FCA No.192 of 2011 dated 30.10.2017 on the file of this Court. They would submit that in view of settling all their disputes at the

intervention of elders, they are proposing to compound the offences involved in C.C.No.757 of 2013 also and hence permission may be granted to them.

6) On enquiry by this Court, both the parties affirmed the contents in joint memo. The offences alleged in C.C.No.757 of 2013 are under Sections 498A IPC and Sections 3 & 4 of Dowry Prohibition Act (for short “D.P.Act”). Section 498A IPC is compoundable under Section 320(2) Cr.P.C i.e, with the permission of the Court vide Andhra Pradesh State Amendment Act 11 of 2003, Section 2 w.e.f. 01.08.2003. So far as Sections 3 and 4 of D.P.Act are concerned, they are non-compoundable under Section 320 Cr.P.C. However, in *Manohar Singh vs. State of Madhya Pradesh and another*¹, the Apex Court while dealing with the question as to the compoundability of the offences under Section 498A IPC and Section 4 of D.P.Act, after referring several decisions observed that though Section 498A IPC and Section 4 of the D.P. Act were not compoundable, however, if there is a genuine compromise between husband and wife, criminal complaints arising out of matrimonial discord can be quashed, even if the offences alleged therein are non-compoundable, because such offences are personal in nature and do not have repercussions on the society unlike heinous offences like murder, rape, etc. If the High Court forms an opinion that it is necessary to quash the proceedings to

¹ (2014) 13 SCC 75

prevent abuse of the process of any Court or to secure the ends of justice, the High Court can do so.

7) In the light of the exposition of the Hon'ble Apex Court, when the case on hand is vetted, Section 498A IPC is compoundable under Section 320 (2) Cr.P.C after lapse of a minimum period of three months from the date of request or application for compromise is made before a Court. In the instant case, the said period is not completed. However, in *Manohar Singh's* case (1 supra), the Apex Court held that exercising power under Section 482 of the Code is not inhibited by Section 320 of the Code. Therefore and in view of parties have genuinely settled all their disputes and no additional purpose will be served by keeping them awaited for three months, the said requirement is dispensed with. Similarly, exercising the plenary power under Section 482 of the Code, the offences under Sections 3 and 4 of the D.P.Act, though not compoundable, are permitted to be compounded. It shall be noted, the instant case is a matrimonial dispute and purely a private one and the same has no impact on the society. Further, from the submission of both the parties, they have settled all their disputes and pending cases at the intervention of elders.

8) With the above observations, I.A.No.2 of 2018 is allowed and the parties are permitted to compound the offences involved in C.C.No.757 of 2013 on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam. Consequently, the Criminal Petition

No.2206 of 2018 is allowed and the proceedings against A1 in the said C.C.No.757 of 2013 are quashed and accordingly, they are acquitted.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 11.04.2018
Murthy

