

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

I.A.Nos.2 & 3 OF 2018

IN/AND

CRIMINAL PETITION NO.8541 OF 2018

ORDER:

I.A.Nos.2 & 3 OF 2018

These miscellaneous petitions are filed under Sections 320(2) & (6) Cr.P.C to record compromise and compound the offences against the petitioner for the offences punishable under Sections 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act, on the ground that, during pendency of CrI.A.No.32 of 2017 on the file of V Additional Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, Hyderabad, after conviction, the parties entered into compromise. Instead of filing an application before the Appellate Court to compound the offences punishable under Sections 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act, the petitioner straight-away approached this Court by filing the present criminal petition with a prayer to set-aside the conviction and judgment dated 21.12.2016 in C.C.No.79 of 2012 passed by the XIV Metropolitan Magistrate, Cyberabad at L.B. Nagar, which is the subject matter of CrI.A.No.32 of 2017, on various grounds.

When an appeal is pending before the Appellate Court against the conviction and sentence in C.C.No.79 of 2012 passed by the XIV Metropolitan Magistrate, Cyberabad at L.B. Nagar dated 21.12.2016, this Court cannot exercise its inherent jurisdiction under Section 482 Cr.P.C and set-aside the conviction and

sentence in C.C.No.79 of 2012 passed by the XIV Metropolitan Magistrate, Cyberabad, which is the subject matter of CrI.A.No.32 of 2017 pending on the file of V Additional Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, Hyderabad.

I.A.Nos. 2 & 3 are filed seeking leave of the Court to compound the offences punishable under Sections 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act. Filing an application under Section 482 Cr.P.C to set-aside the conviction and sentence in C.C.No.79 of 2012 passed by the XIV Metropolitan Magistrate, Cyberabad, which is the subject matter of CrI.A.No.32 of 2017 pending on the file of V Additional Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, Hyderabad is nothing but abuse of process of the Court. Approaching this Court by filing applications under Section 320(2) Cr.P.C is nothing but a rouse to get the compromise recorded, instead of approaching the court where the appeal is pending.

Learned counsel for the petitioner placed reliance on the unreported judgment of Karnataka High Court in **Manjunatha T Nayak v. Smt. Rajeshwari**¹. But, the judgment of Karnataka High Court is not a binding precedent on this Court and it has got only persuasive value. However, the facts are different and the petition therein was filed only to quash the judgment of the Trial Court. But, in the present case, in the main petition, this Court by exercising power under Section 482 Cr.P.C cannot quash/set-aside the conviction and sentence in C.C.No.79 of 2012 passed by the XIV Metropolitan Magistrate, Cyberabad, as it is the subject matter

¹ CrI.P.No.5855 of 2017 dated 07.09.2017

of appeal. In such case, this Court cannot grant leave to this petitioner to compound the offence punishable under Sections 498-A IPC and Sections 3 & 4 of Dowry Prohibition Act and the principle laid down in the above judgment cannot be applied. In case the petitioner files such application in Crl.A.No.32 of 2017 pending on the file of V Additional Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, Hyderabad and any adverse order is passed, the petitioner can approach this Court under Section 482 Cr.P.C, but, filing of criminal petition is abuse of process of the Court. Hence, I find no ground to grant leave to the petitioner to compound the offences and compromise.

Accordingly, I.A.Nos.2 & 3 are dismissed.

Cr.P.No.8541 of 2018

In view of the detailed order passed by this Court in I.A.Nos.2 & 3, the criminal petition is not maintainable and the same is also liable to be dismissed.

In the result, criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.08.2018

SP