

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.3228 of 2017

ORDER:

This Criminal Revision Case is filed by the petitioners/A.1 to A.6 aggrieved by the order dated 16.12.2016 in CrI.M.P.No.1148 of 2016 in CrI.A.No.129 of 2015 passed by learned Principal Sessions Judge, Karimnagar, dismissing the petition filed under Section 320(8) Cr.P.C by the petitioners and respondent requesting the Court to permit them to compound the offences.

2) Heard arguments of Mr. M.Ram Mohan Reddy, learned counsel for petitioners and Mrs. S.Thamsha Rani, learned counsel for respondent No.2.

3) In C.C.No.388 of 2014, A.1 to A.5 were convicted for the offences under Section 498-A IPC and Section 4 of D.P. Act, whereas A.1 and A.6 were convicted for the offence under Section 494 IPC. Aggrieved they preferred CrI.A.No.129 of 2015. Pending the appeal, the parties filed CrI.M.P.No.1148 of 2016 under Section 320 (8) Cr.P.C requesting the Court to permit them to compound the offence. The lower Appellate Court dismissed the petition on the ground that Sections 3 and 4 of D.P.Act are non-compoundable offences as they do not figure under Section 320(8) Cr.P.C.

Hence the instant CrI.R.C.

4) Learned counsel for petitioner would submit that it is a matrimonial matter wherein both parties amicably settled all the disputes pending between

them and in pursuance of the compromise, they proposed to compound the offences involved in the Criminal Appeal and the appellate Court erred in rejecting their application. He submitted that though the offence under Section 4 of D.P. Act is not compoundable under Section 320(8) Cr.P.C, still the High Court while exercising the revisional jurisdiction, can permit the parties to compound. He placed reliance on *Manohar Singh vs. State of Madhya Pradesh and another*¹.

5) The point for determination is:

“Whether there are merits in the Crl.R.C to allow?”

6) **POINT**: As stated supra, the petitioners/A.1 to A.5 were convicted for the offences under section 498-A IPC and Section 4 of D.P. Act, whereas A.1 and A.6 were convicted for the offence under Section 494 IPC. Section 498A IPC is concerned, as per Andhra Pradesh Amendment Act 11 of 2003 w.e.f. 01.08.2003 vide G.O.Ms.No.95 Law (LA & J Home (Courts-B) dt.1.8.2003, the said offence is compoundable after a minimum period of three months from the date of request or application for compromise. In this case also, the parties moved the compounding petition before the lower Appellate Court long back and the same was dismissed on 16.12.2016. Hence, the offence under Section 498-A IPC can be permitted to be compounded. Section 494 IPC is compoundable under Section 320 (2) Cr.P.C with the permission of the Court. Section 4 of Dowry Prohibition Act is concerned, the same is non-compoundable offence as it is not specifically mentioned in Section 320 Cr.P.C. However, in *Manohar Singh*'s case (1 supra), Hon'ble Apex Court

¹ (2014) 13 SCC 75

while dealing with the question as to the compoundability of the offence under Section 498-A IPC and Section 4 of D.P.Act, 1961, after referring several decisions observed that though Section 498-A 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 prevent abuse of the process of any Court or secure the ends of justice, the High Court can do so. The inherent power of the High Court under Section 482 of the Code is not inhibited by Section 320 of the Code and needless to say, the Supreme Court can also follow such a course.

a) The Apex Court further observed that in the case before it, the appellant was convicted under Section 498-A IPC and sentenced to undergo six (6) months imprisonment and he was also convicted under Section 4 of D.P. Act and sentenced to undergo six (6) months imprisonment. Therefore, even though the parties have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved were non-compoundable. The Apex Court further held that in such a situation, if the Court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Ultimately, the Apex Court while maintaining the conviction of the appellant therein under Section 498-A IPC and Section 4 of

D.P.Act, however, reduced the sentence awarded by the Courts below to the sentence already undergone by him.

b) In the light of above ruling of the Apex Court, the case on hand has to be considered. As already noted, Section 498-A IPC is compoundable by virtue of A.P Amendment Act and Section 494 IPC is also a compoundable offence. Section 4 of D.P. Act is a non-compoundable offence. The offences are matrimonial offences and hence they are private offences and do not have repercussion on the society.

7) In the result, the Criminal Revision Case is allowed and the impugned order dated 16.12.2016 in CrI.M.P.No.1148/2016 in CrI.A.No.129/2015 passed by the Principal Sessions Judge, Karimnagar is set aside. While maintaining the conviction recorded by the Trial Court against the accused for the offences under Sections 498-A & 494 IPC and Sec. 4 of D.P.Act, the sentence passed against the petitioners by the Trial Court is reduced to the remand period already undergone by them. Consequently, the lower Appellate Court is directed to permit the petitioners to compound the case and pass necessary orders.

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

U.DURGA PRASAD RAO, J

Date: 20.03.2018
scs