

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

I.A.No.2 of 2018 in CrI.P.No.13880 of 2018

and

CrI.P.No.13880 of 2018

COMMON ORDER:

The *defacto* complainant and her counsel Sri Penumaka Venkata Rao are present. Petitioners/Accused Nos.1 to 5 and their counsel Sri Kambhampati Ramesh Babu are present. Both the parties are identified by their respective counsel.

- 2) Heard both sides and perused the petitions.
- 3) The *defacto* complainant lodged a report with the police of II Town PS, Eluru and the same was registered as Crime No.185 of 2014 and after investigation charge sheet was filed for the offences under Section 498A r/w 34 IPC and Sections 3 and 4 of Dowry Prohibition Act (for short "DP Act") before the Judicial First Class Magistrate, Special Mobile Court, Eluru, West Godavari District and cognizance was taken by the said Court and case was registered as C.C.No.735 of 2016.
- 4) While so, pending Criminal Petition, both the parties filed I.A.No.2 of 2018 seeking permission of this Court to compound the offences involved in C.C.No.735 of 2016 on the file of Judicial First Class Magistrate, Special Mobile Court, Eluru, West Godavari District on the submission that both parties have amicably settled all their disputes at the intervention of elders and hence permission may be granted to them.
- 5) The offences involved in C.C.No.735 of 2016 are under Section 498A r/w 34 IPC and Sections 3 and 4 of D.P.Act. Section 498-A 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. 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 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 process of any Court or to secure the ends of justice, the High Court can do so.

6) In the light of above judgment 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

¹ (2014) 13 SCC 75

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.

7) With the above observations, I.A.No.2 of 2018 is allowed and the parties are permitted to compound the offences in C.C.No.735 of 2016. Consequently, Criminal Petition No.13880 of 2018 is allowed and the proceedings in C.C.No.735 of 2016 on the file of Judicial First Class Magistrate, Special Mobile Court, Eluru, West Godavari District are quashed against the petitioners/Accused Nos.1 to 5 and they are acquitted of the charges for which they have been charged.

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

Date: 26.12.2018
Murthy

U.DURGA PRASAD RAO, J