

THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.A.No.3 of 2019 in CrI.P.No.278 of 2019

and

CRIMINAL PETITION No.278 OF 2019

COMMON ORDER :

The petitioners are A.1 to A.12 in C.C.No.260/2012 on the file of the learned Judicial First Class Magistrate at Shadnagar. They filed this petition under Section 482 CrPC to quash the proceedings therein. The said Calendar Case arose out of Crime No.93/2012 on the file of Kothur Police Station, Mahabubnagar District, registered for offences punishable under Sections 147, 148, 323, 324 and 326 read with 149 IPC, on the strength of the complaint made by the second respondent/complainant.

2. While so, it appears that the parties have arrived at a settlement and in consequence thereof, the second respondent/complainant filed I.A.No.3/2019 praying that the compromise may be recorded and the proceedings in the pending case may be closed. Along with the said I.A., Joint Memo dated 21.01.2019, duly signed by the second respondent/complainant and the accused, along with their respective counsel, was placed on record, wherein it was recorded that the parties have settled their disputes amicably.

3. The second respondent/complainant is present in person and produced his Aadhaar Card in proof of his identity. He stated that all the accused are related to him and that, upon the intervention of elders, the matter has been settled amicably.

4. All the offences alleged against the accused, except the offence under Section 326 IPC, are compoundable under Section 320 CrPC. The learned Assistant Public Prosecutor would point out that

an offence under Section 326 IPC would be punishable either with imprisonment for life or imprisonment for 10 years and fine and such a serious offence cannot be permitted to be compromised. However, given the peculiar facts of this case and as the second respondent/complainant is related to all the accused, this Court is of the opinion that their family relations would be at stake in the event the settlement is not given effect to. This Court would therefore be entitled to exercise its inherent power under Section 482 CrPC as the constraints in Section 320 CrPC would not bar exercise of such power, in the light of the law laid down by the Supreme Court in **GIAN SINGH V/s. STATE OF PUNJAB**¹. The observations of the Supreme Court therein are extracted hereunder:

'61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in

¹ [(2012) 10 SCC 303 : (2013) 1 SCC (CrI) 160]

that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.'

5. In the light of the aforestated settled legal position, I.A.No.3/2019 is ordered. In consequence, Criminal Petition No.278/2019 is allowed quashing the proceedings in C.C.No.260/2012 on the file of the learned Judicial First Class Magistrate at Shadnagar.

Pending I.A.s, if any, shall stand closed in the light of this final order.

SANJAY KUMAR, J

23rd April, 2019
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