

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOs.3 AND 5 OF 2019 IN
CRIMINAL PETITION No.732 of 2019
AND
CRIMINAL PETITION No.732 of 2019

COMMON ORDER:

Criminal Petition No.732 of 2019 was filed by A.1 and A.6 in Crime No.135 of 2017 on the file of Ramannapet Police Station, Rachakonda Commissionerate, registered under Section 498-A IPC read with Sections 3 and 4 of Dowry Prohibition Act, 1961, to quash the proceedings in the said case.

Be it noted that A.2 to A.5 and A.7 in this crime already compounded the offences alleged against them therein and the same was recognized, allowing quashing of the proceedings against them in this crime, *vide* order dated 29.10.2018 passed in I.A.Nos.1 & 3 of 2018 in/and CrI.P.No.5961 of 2018.

While so, I.A.Nos.3 and 5 of 2019 were filed in the present petition by A.1 and A.6 in Crime No.135 of 2017 to record the compromise arrived at by them with Smt.Sanobar Naaz, the complainant in Crime No.135 of 2017, being the wife of the first petitioner-A.1. A joint memo was filed, duly signed by the second respondent-wife along with the General Power of Attorney holder of the first and second petitioners-A.1 and A.6 and their learned counsel. Therein, it was recorded to the effect that a sum of Rs.3,00,000/- would be paid to the second respondent-wife and pursuant thereto, she would permit compounding of the offences alleged against A.1 and A.6 in Crime No.135 of 2017.

The second respondent-wife is present in person and produced a photo copy of her Aadhaar card in proof of her identity and similarly, S.K.Chand Pasha Shaik, the General Power of Attorney holder of the

petitioners-A.1 and A.6, produced his Aadhaar card in proof of his identity. Smt.Sanobar Naaz stated in open Court that she already received the promised sum of Rs.3,00,000/- and that she has no objection to the offences being compounded.

Though the offence under Section 498-A IPC is compoundable, owing to the State amendment of Section 320 CrPC under A.P. Act No.11 of 2003 with effect from 01.08.2003, an offence under the special enactment viz., the Dowry Prohibition Act, 1961, would not be amenable to such compounding. However, in the light of the observations made by the Supreme Court in *GIAN SINGH V/ s. STATE OF PUNJAB*¹ to the effect that exercise of inherent power by this Court under Section 482 CrPC would not be bound by the statutory constraints of Section 320 CrPC, this Court would be entitled to permit a compromise in the case on hand. The observations of the Supreme Court in this regard may be noted:

'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

¹ (2012) 10 SCC 303 : (2013) 1 SCC (Cri) 160

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 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.'

In the light of the aforestated legal position, this Court sees no purpose served in permitting wastage of the State's resources in prosecuting the case registered in Crime No.135 of 2017 even as regards

A.1 and A.6. I.A.Nos.3 and 5 are accordingly ordered. In consequence, Criminal Petition No.732 of 2019 is allowed quashing Crime No.135 of 2017 on the file of Ramannapet Police Station, Rachakonda Commissionerate. I.A.No.2 of 2019 shall stand dismissed.

JUSTICE SANJAY KUMAR

Date:22.04.2019

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