

THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.A.Nos.3 and 4 of 2019 in CrI.P.No.1553 of 2019

and

CRIMINAL PETITION No.1553 OF 2019

COMMON ORDER :

CrI.P.No.1553 of 2019 was filed by A.1 to A.3 in Sessions Case No.549/2011 on the file of the learned V Additional Metropolitan Sessions Judge, Hyderabad, under Section 482 CrPC, to quash the proceedings therein. The said case arose out of Crime No.470/2010 on the file of the Women Police Station, Central Crime Station, Hyderabad, registered for offences punishable under Sections 498A, 354, 506 IPC and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961 (for short, 'Act of 1961'), on the strength of the complaint made by the second respondent/wife.

2. While so, it appears that the parties have now settled the matter amicably and consequently, I.A.Nos.3 and 4 of 2019 were filed in this case to permit the compromise and to quash the proceedings in the pending case.

3. Memorandum of Compromise dated 28.07.2016 executed by the second respondent/wife and the first petitioner/husband is placed on record. In terms of this compromise, it appears that they already obtained a divorce by mutual consent in F.C.O.P.No.1162/2013 on the file of the learned Judge, Additional Family Court, Hyderabad. As per the compromise, the first petitioner/husband was to pay a sum of Rs.1,00,00,000/- (Rupees One Crore only) to the second respondent/wife in the manner provided.

4. Petitioners/A.1 to A.3 are present in person and produced their Aadhaar Cards in proof of their identity. The second respondent/wife is also present in person and produced her Aadhaar Card in proof of her identity. She stated that she already received the amount promised to her in full and that she has no further claims against the petitioners/A.1 to A.3. She further stated that she has no objection to the compromise being taken note of so as to quash the proceedings in the pending case.

5. The offences alleged against the petitioners/A.1 to A.3 under the IPC are compoundable under Section 320 CrPC. However, the offences alleged under the special enactment, viz., the Act of 1961, would not be compoundable under Section 320 CrPC. That being said, the inherent power vesting in this Court under Section 482 CrPC can be exercised even in such circumstances to allow a compromise so as to give a quietus to the matter. This view gains support from the observations of the Supreme Court in **GIAN SINGH V/s. STATE OF PUNJAB**¹, which 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

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.'

6. In the light of the aforestated settled legal position, this Court see no purpose served in wasting the State's resources in prosecuting S.C.No.549/2011 on the file of the learned V Additional Metropolitan Sessions Judge, Hyderabad, when the parties thereto

have settled the matter amicably. I.A.Nos.3 and 4 of 2019 are accordingly ordered. In consequence, Criminal Petition No.1553 of 2019 is allowed quashing the proceedings in S.C.No.549/2011 on the file of the learned V Additional Metropolitan Sessions Judge, Hyderabad.

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

23rd April, 2019

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SANJAY KUMAR, J

