

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOS.1 AND 3 OF 2019 IN CRIMINAL PETITION NO.1569 OF
2019 AND CRIMINAL PETITION NO.1569 OF 2019

AND

I.A.NOS.1 AND 2 OF 2019 IN CRIMINAL PETITION NO.1573 OF
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COMMON ORDER

Crl.P.No.1569 of 2019 was filed by A1 to A4 in C.C.No.124 of 2018 on the file of the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, to quash the proceedings therein. The said Calendar Case arose out of Crime No.106 of 2015 on the file of the Langer House Police Station, Asif Nagar Division, Hyderabad West, registered under Sections 323, 342, 354, 354A, 384, 420, 498A, 506, 509 IPC read with Section 34 IPC and Sections 3, 4 and 6 of the Dowry Prohibition Act, 1961, on the basis of the complaint made by the second respondent-wife.

Crl.P.No.1573 of 2019 was filed by the petitioners in Crl.P.No.1569 of 2019 to quash the proceedings in D.V.C.No.219 of 2015 on the file of the learned IV Metropolitan Magistrate, Hyderabad, which was filed against them by the second respondent-wife.

While so, it appears that during the pendency of these cases before this Court, the parties have arrived at a compromise and Deed of Settlement dated 15.03.2019 was executed by the second respondent-wife and the third petitioner in both cases, her father-in-law. The Deed records that the first petitioner-husband and the second respondent-wife got divorced on 13.06.2015 as per Muslim customs and traditions and the second respondent-wife agreed to withdraw/get quashed C.C.No.124 of 2018 as well as D.V.C.No.219 of 2015. The second respondent-wife was to be paid a sum of Rs.5,00,000/- in full and final settlement of her claims and the said sum was remitted to her under banker's demand drafts

bearing Nos.017884 and 017885, both dated 08.03.2019, issued by HDFC Bank, Mehdiapatnam Branch, Hyderabad for a sum of Rs.2,50,000/- each, drawn up in her name. Her father-in-law agreed to handover her remaining Jahez articles as per the list appended to the Settlement Deed.

I.A.Nos.1 and 3 of 2019 in CrI.P.No.1569 of 2019 and I.A.Nos.1 and 2 of 2019 in CrI.P.No.1573 of 2019 were filed to recognize the terms of compromise and to quash the proceedings in the pending cases.

The second respondent-wife is present in person and produced her Aadhaar card in proof of her identity. Similarly, her father-in-law and mother-in-law, being the second and third petitioners respectively in both these cases, are also present and produced their respective Aadhaar cards in proof of their identity. The second respondent-wife stated in open Court that she received the full amount due to her in terms of the Settlement Deed along with the articles promised to be returned. She further stated that she has no objection to quashing of the proceedings in the pending cases.

It may be noted that the offences alleged against the accused are all compoundable under Section 320 CrPC, except for the offence under Section 384 IPC and the offences under Sections 3, 4 and 6 of the Dowry Prohibition Act, 1961. However, in the light of the law laid down by the Supreme Court in GIAN SINGH V/ s. STATE OF PUNJAB¹ to the effect that exercise of inherent powers by this Court under Section 482 CrPC would not be bound by the constraints of Section 320 CrPC, this Court would be entitled to recognize the compromise arrived at between the parties and give a quietus to the issue. The observations of the Supreme Court, in this regard, read as under:

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

'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 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 is of the opinion that it would be futile to waste the State's resources by requiring prosecution of C.C.No.124 of 2018 and D.V.C.No.219 of 2015 against the accused at this stage. All the more so, when the parties have already settled their inter se disputes and the issue no longer requires to be redressed on merits.

In that view of the matter, I.A.Nos.1 and 3 of 2019 in CrI.P.No.1569 of 2019 and I.A.Nos.1 and 2 of 2019 in CrI.P.No.1573 of 2019 are ordered. In consequence, CrI.P.Nos.1569 and 1573 of 2019 are allowed quashing the proceedings in C.C.No.124 of 2018 on the file of the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, and the proceedings in D.V.C.No.219 of 2015 on the file of the learned IV Metropolitan Magistrate, Hyderabad.

SANJAY KUMAR, J

24th APRIL, 2019

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