

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOs.1 AND 2 OF 2019 IN
CRIMINAL PETITION No.1565 of 2019
AND
CRIMINAL PETITION No.1565 of 2019

COMMON ORDER:

The petitioners are A.1 to A.4 in C.C.No.274 of 2018 on the file of the learned Judicial First Class Magistrate, Shadnagar. They filed this petition under Section 482 CrPC to quash the proceedings therein. The said case arose out of Crime No.134 of 2018 on the file of Nandigama Police Station, Ranga Reddy District, relating to offences under Sections 420, 120-B and 498-A IPC read with Sections 3 and 4 of the Dowry Prohibition Act, 1961, registered on the strength of the complaint made by the second respondent-wife. Be it noted that A.1 to A.4 are her husband, mother-in-law, father-in-law and brother-in-law respectively.

While so, it appears that the parties amicably settled their *inter se* disputes and Compromise Deed dated 25.02.2019 was executed by the first petitioner-husband and the second respondent-wife setting out the terms and conditions of their settlement. As per the said document, the first petitioner-husband agreed to pay a sum of Rs.17,50,000/- to the second respondent-wife. They also agreed to get their marriage dissolved by filing a mutual divorce application in the divorce O.P. already filed by the first petitioner-husband on the file of the learned Judge, Additional Family Court, Kukatpally, Ranga Reddy District.

The second respondent-wife and the petitioners-A.1 to A.4 are present in person and produced their Aadhaar Cards in proof of their identity. The second respondent-wife stated that she received the full sum of Rs.17,50,000/- promised to her and that she has no other claims against the first petitioner-husband or his family members. She further

stated that she has no objection to the proceedings in the pending case being quashed in the light of the compromise arrived at by her with her husband and his family.

An offence under Section 420 IPC is compoundable under Section 320 CrPC. An offence under Section 498-A IPC is also compoundable, owing to the State amendment of Section 320 CrPC under A.P. Act No.11 of 2003 with effect from 01.08.2003, but 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 the 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 and as the parties have already settled their differences, this Court sees no purpose served in

wasting the State's resources in prosecuting the case in C.C.No.274 of 2018 on the file of the learned Judicial First Class Magistrate, Shadnagar.

I.A.Nos.1 and 2 are accordingly ordered. In consequence, Criminal Petition No.1565 of 2019 is allowed quashing C.C.No.274 of 2018 on the file of the learned Judicial First Class Magistrate, Shadnagar.

JUSTICE SANJAY KUMAR

Date:26.04.2019

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