

THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.A.Nos.2 and 3 of 2019 in CrI.P.No.2127 of 2019

and

CRIMINAL PETITION No.2127 OF 2019

COMMON ORDER :

Criminal Petition No.2127 of 2019 was filed under Section 482 CrPC by A.1 to A.12 in Sessions Case No.306 of 2018 on the file of the learned District and Sessions Judge, Warangal District, to quash the proceedings therein. The said Sessions Case arose out of Crime No.130/2017 on the file of the Women Police Station, Warangal City, registered for offences punishable under Sections 498A, 108-A, 307, 506 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, 'Act of 1961'), on the strength of the complaint made by the second respondent/wife.

2. While so, the parties seem to have settled the matter amicably and I.A.Nos.2 and 3 of 2019 were filed as a result thereof, praying that this Court permit the compromise to be given effect to by compounding the offences and quashing the proceedings in the pending case. In terms of the undated Joint Memo of Compromise signed by the second respondent/wife and the petitioners/accused, along with their counsel, the second respondent/wife agreed to withdraw the complaint filed by her which formed the basis for Crime No.130/2017 on the file of the Women Police Station, Warangal City. As per the settlement, the first petitioner/husband paid a sum of Rs.31,00,000/- (Rupees Thirty One Lakhs only) in full and final settlement of the permanent alimony claim of the second respondent/wife. The Memorandum also records that the marriage between the parties was dissolved by the learned Judge, Family

Court, Ranga Reddy District at L.B.Nagar, in F.C.O.P.No.1805 of 2017.

3. The second respondent/wife is present in person and produced her Income-Tax PAN card, bearing No.AMGPA 6294A, in proof of her identity. All the accused, except petitioner No.7/A.7, are present in person and produced various documents in proof of their identity. Petitioner No.7/A.7 is represented by petitioner No.3/A.3.

4. An offence under Section 498A IPC is compoundable under Section 320 CrPC, as amended by A.P. Act No.11 of 2003 w.e.f.01.08.2003 in the erstwhile State of Andhra Pradesh, which would now be applicable in the State of Telangana. Similarly, an offence under Section 506 IPC would also be compoundable under the said provision. However, offences under Sections 108-A and 307 IPC and offences under the Act of 1961 are not compoundable under Section 320 CrPC. Though, strictly speaking, an offence under Section 307 IPC, being an offence against society and public interest, would not be amenable to compromise, it may be noted that the present case relates to and arises out of matrimonial disputes. That being the position, exercise of inherent power by this Court under Section 482 CrPC would not be fettered by the constraints of Section 320 CrPC 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 read as under:

“**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

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

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.”

5. As the parties have now settled their disputes and have decided to put the past behind them so that they can go on with their lives, this Court sees no purpose served in wasting State resources upon prosecuting the Sessions Case, despite the settlement between the parties and more importantly, the unwillingness of the second respondent/wife, the complainant therein, to continue with the proceedings. I.A.Nos.2 and 3 of 2019 are accordingly ordered. In consequence, Criminal Petition is allowed quashing the proceedings in Sessions Case No.306 of 2018 on the file of the learned District and Sessions Judge, Warangal District.

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

23rd April, 2019
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SANJAY KUMAR, J