

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOS.1 AND 3 OF 2019 IN CRIMINAL PETITION NO.2200 OF
2019 AND CRIMINAL PETITION NO.2200 OF 2019

COMMON ORDER

Criminal Petition No.2200 of 2019 was filed by A1 to A3 in C.C.No.15 of 2015 on the file of the learned XV Additional Chief Metropolitan Magistrate, Hyderabad, to quash the proceedings therein. The said Calendar Case arose out of Crime No.82 of 2016 on the file of the Women Police Station, South Zone, Hyderabad City, registered under Section 498A IPC read with Sections 4 and 6 of the Dowry Prohibition Act, 1961, on the strength of the complaint made by the second respondent-wife.

While so, it appears that the parties have come to an amicable settlement and Settlement Deed dated 20.03.2019 was executed by the second respondent-wife and the first petitioner-husband, represented by his General Power of Attorney holder and father, the third petitioner/A3. In terms of the settlement recorded in this document, the first petitioner-husband undertook to take back the second respondent-wife and their daughter with him to Dubai. He also promised to provide proper maintenance to them and give respect to the second respondent-wife.

I.A.No.1 of 2019 was filed under Section 320 CrPC to compound the offences and to quash the proceedings in C.C.No.15 of 2015 while I.A.No.3 of 2019 was filed seeking permission to allow the parties to compromise the case by compounding the offences.

The second respondent-wife is present in person and produced her Aadhaar card in proof of her identity. The first petitioner/A1 is in Dubai and executed a Deed of General Power of Attorney on 12.03.2019

authorising his father, the third petitioner/A3, to represent him for the purpose of recording this reconciliation settlement. A2 and A3 are present in person and produced their Aadhaar cards in proof of their identity.

In the light of the State amendment to Section 320 CrPC under A.P. Act No.11 of 2003 with effect from 01.08.2003, an offence under Section 498A IPC would be compoundable. However, in so far as offences under the special enactment, viz., the Dowry Prohibition Act, 1961, are concerned, though they would not come within the ambit of Section 320 CrPC, this Court would be entitled to exercise its inherent powers under Section 482 CrPC and record a compromise even in relation thereto in the light of the law laid down by the Supreme Court in *GLAN SINGH V/ s. STATE OF PUNJAB*¹. The observations of the Supreme Court, in this regard, 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 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

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

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 allowing the State to waste its resources in prosecuting C.C.No.15 of 2017 on the file of the learned XV Additional Chief

Metropolitan Magistrate, Hyderabad, in view of the settlement arrived at by and between the parties which, hopefully, would bring them about matrimonial peace and harmony.

In the result, I.A.Nos.1 and 3 of 2019 are ordered. In consequence, Criminal Petition No.2200 of 2019 is allowed quashing the proceedings in C.C.No.15 of 2017 on the file of the learned XV Additional Chief Metropolitan Magistrate, Hyderabad. I.A.No.2 of 2019, whereby the petitioners sought stay of further proceedings in the Calendar Case, is rendered infructuous and is accordingly dismissed.

23rd APRIL, 2019

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SANJAY KUMAR, J

