

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOS.2 AND 3 IN CRIMINAL PETITION NO.2170 OF 2019
AND CRIMINAL PETITION NO.2170 OF 2019

AND

I.A.NOS.1 AND 2 IN CRIMINAL PETITION NO.2208 OF 2019
AND CRIMINAL PETITION NO.2208 OF 2019

COMMON ORDER

CrI.P.No.2170 of 2019 was filed by A1 and A4 in C.C.No.159 of 2015 on the file of the learned XV Additional Chief Metropolitan Magistrate, Hyderabad, under Section 482 CrPC seeking quashing of the proceedings in said case. C.C.No.159 of 2015 relates to alleged offences under Sections 498A and 323 IPC read with Section 34 IPC along with Sections 4 and 6 of the Dowry Prohibition Act, 1961.

CrI.P.No.2208 of 2019 was filed by respondents 1 to 6 in D.V.C.No.8 of 2016 on the file of the learned III Metropolitan Magistrate, Hyderabad. This petition was filed under Section 482 CrPC seeking quashing of the proceedings in D.V.C.No.8 of 2016.

While so, it appears that the parties have settled their disputes and filed applications in both these cases to record the compromise arrived at by and between them and to quash the proceedings in the respective cases.

Smt.Mehraj Sultana, the wife, is present in person and produced her Aadhaar card in proof of her identity. Her husband, being A1 in C.C.No.159 of 2015, is represented by his brother and General Power of Attorney holder, Syed Ahmed. The said General Power of Attorney holder is present in person and produced his Aadhaar card in proof of his identity. Farzana Sultana, A4 in C.C.No.159 of 2015, is also present in person and produced her Aadhaar card in proof of her identity. These two

persons are arrayed as petitioners 1 and 4 in CrI.P.No.2208 of 2019 which arises out of D.V.C.No.8 of 2016. Petitioners 2, 3, 5 and 6 in CrI.P.No.2208 of 2019 are also present in person. They produced their Aadhaar cards in proof of their identity.

The Memorandum of Settlement dated 15.04.2019 arrived at by and between the parties is placed on record. As per the said Memorandum of Settlement, the wife was to be paid a sum of Rs.6,00,000/- by the husband in full and final settlement. In furtherance of this condition, banker's cheques bearing Nos.881939 and 881940, both dated 15.04.2019, issued by State Bank of India, Mallepally Branch, Hyderabad, drawn up in the name of Mehraj Sultana for the sums of Rs.2,00,000/- and Rs.4,00,000/- respectively are handed over to Smt.Mehraj Sultana in open Court. The other terms and conditions of the settlement may not be relevant for the purposes of these cases.

Though an offence under Section 498A IPC is compoundable in the State of Telangana owing to the State amendment of Section 320 CrPC, *vide* A.P. Act No.11 of 2003 with effect from 01.08.2003, offences under the special enactment, viz., the Dowry Prohibition Act, 1961, would not be compoundable.

However, in the light of the law laid down by the Supreme Court in *GIAN SINGH V/ s. STATE OF PUNJAB*¹, the situation would be different when it comes to exercise of inherent powers by this Court under Section 482 CrPC. 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

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

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 sees no purpose served in wasting State resources to prosecute either C.C.No.159 of 2015 or allowing the parties to continue with the proceedings in D.V.C.No.8 of 2016.

In that view of the matter, I.A.Nos.2 and 3 of 2019 in CrI.P.No.2170 of 2019 and I.A.Nos.1 and 2 in CrI.P.No.2208 of 2019 are ordered.

CrI.P.Nos.2170 and 2208 of 2019 are allowed quashing the proceedings in C.C.No.159 of 2015 on the file of the learned XV Additional Chief Metropolitan Magistrate, Hyderabad, and quashing the proceedings in D.V.C.No.8 of 2016 on the file of the learned III Metropolitan Magistrate, Hyderabad.

SANJAY KUMAR, J

22nd APRIL, 2019

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