

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOS.2 AND 3 OF 2019 IN CRIMINAL PETITION NO.2249 OF
2019 AND CRIMINAL PETITION NO.2249 OF 2019

COMMON ORDER

Crl.P.No.2249 of 2019 was filed by A1 to A3 in C.C.No.182 of 2018 on the file of the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad, under Section 482 CrPC, to quash the proceedings therein. The said Calendar Case arose out of Crime No.400 of 2017 on the file of the Women Police Station, Central Crime Station, D.D., Hyderabad, registered under Section 498-A IPC and Section 3 of the Dowry Prohibition Act, 1961 (*for brevity*, 'the Act of 1961'), on the strength of the complaint made by the second respondent-wife.

While so, the parties seem to have settled their disputes amicably and in consequence, I.A.Nos.2 and 3 of 2019 were filed in this criminal petition to permit them to give effect to the compromise and to quash the proceedings in the pending case by compounding the offences therein.

The second respondent-wife is present in person and produced her Aadhaar card in proof of her identity. The first petitioner-husband and his mother and sister, the second and third petitioners/A2 and A3 respectively, are also present in person and produced their Aadhaar cards in proof of their identity. The second respondent-wife states that the marriage between her and the first petitioner-husband has already been dissolved by a decree of divorce passed by the learned Judge, Family Court, City Civil Court, Hyderabad, in O.P.No.709 of 2017. She further states that a sum of Rs.6,00,000/- had already been paid to her and in addition thereto, a further sum of Rs.6,00,000/- was paid to her today. Banker's cheque No.730780 dated 18.04.2019 issued by the State Bank of India, Municipal Complex, Tank Bund Branch, Hyderabad, drawn up in the

name of the second respondent-wife was handed over to the second respondent-wife in open Court. She stated that she has no grievance with the petitioners/accused and that she has no objection to the compounding of the offences and quashing of the proceedings in the pending case.

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 Act of 1961, would not be compoundable under Section 320 CrPC.

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 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

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

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 the State's resources in prosecuting C.C.No.182 of 2018. In that view of the matter, I.A.Nos.2 and 3 of 2019 are ordered. In consequence, CrI.P.No.2249 of 2019 is allowed quashing the proceedings in C.C.No.182 of 2018 on the file of the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad.

SANJAY KUMAR, J

25th APRIL, 2019

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