

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOs.1 AND 3 OF 2019 IN
CRIMINAL PETITION No.2221 of 2019
AND
CRIMINAL PETITION No.2221 of 2019

COMMON ORDER:

Criminal Petition No.2221 of 2019 was filed by A.1 to A.6 in C.C.No.317 of 2018 on the file of the learned Judicial Magistrate of First Class, Adilabad, seeking quashing of the proceedings therein. The said Calendar Case arose out of Crime No.7 of 2017 on the file of Adilabad Women Police Station, which was registered under Sections 420 and 498-A IPC read with Sections 3 and 4 of Dowry Prohibition Act, 1961.

While matters stood thus, it appears that the dispute has been settled amicably between the second respondent-wife and the first petitioner-husband and his family members. Memorandum of Compromise dated 12.03.2019 was entered into by the second respondent-wife and the first petitioner-husband. A copy thereof is placed before this Court. In terms of this compromise, the first petitioner-husband agreed to pay a sum of Rs.9,25,000/- to the second respondent-wife and Manager's cheques bearing Nos.002925 and 002926, both dated 08.03.2019, issued by the HDFC Bank, Manikonda Branch, Hyderabad, drawn up in the name of Nuzhat Khanam, the second respondent-wife, were already handedover to her in full and final settlement of her alimony claims. The second respondent-wife agreed to withdraw all complaints and cases filed against the first petitioner-husband and his family members.

In terms of this compromise, I.A.Nos.1 and 3 of 2019 were filed seeking recording of the compromise and quashing of the proceedings in C.C.No.317 of 2018 by allowing the compounding of the offences under Sections 420 and 498-A IPC read with Section 34 IPC and Sections 3 and

4 of the Dowry Prohibition Act, 1961. The offence under Section 420 IPC is compoundable under Section 320 CrPC and an offence under Section 498-A IPC was made compoundable by way of a State amendment of Section 320 CrPC under A.P. Act No.11 of 2003 with effect from 01.08.2003.

Though the offences under the special enactment, viz., the Dowry Prohibition Act, 1961, would not be amenable to compounding under Section 320 CrPC, the observations of the Supreme Court in *GLAN SINGH V/ s. STATE OF PUNJAB*¹ would alter the position as regards exercise of inherent power by this Court under Section 482 CrPC. These observations 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 and as the matter seems to have been settled to the satisfaction of both parties, this Court sees no purpose served in allowing the State to waste its resources in prosecuting C.C.No.317 of 2018 pending on the file of the learned Judicial Magistrate of First Class at Adilabad.

I.A.Nos.1 and 3 are accordingly allowed. In consequence, CrI.P.No.2221 of 2019 is also allowed quashing the proceedings in C.C.No.317 of 2018 pending on the file of the learned Judicial Magistrate of First Class at Adilabad. I.A.No.2 of 2019 shall stand dismissed in consequence.

JUSTICE SANJAY KUMAR

Date:22.04.2019

Note: Issue C.C. by tomorrow.
(B/O) PGS

