

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOS.1 AND 2 OF 2019 IN CRIMINAL PETITION NO.2355 OF
2019 AND CRIMINAL PETITION NO.2355 OF 2019

COMMON ORDER

CrI.P.No.2355 of 2019 was filed by A1 and A2 in C.C.No.350 of 2017 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.80 of 2017 on the file of the Women Police Station, Central Crime Station, Hyderabad, registered under Section 498-A and 406 IPC along with Sections 4 and 6 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, it appears that the parties have settled their disputes amicably and have now resumed their marital life. In consequence, I.A.Nos.1 and 2 of 2019 were filed in this criminal petition to recognize the said compromise so as to compound the offences and quash the proceedings in the pending case.

The second respondent-wife is present in person and produced her Aadhaar card in proof of her identity. The petitioners/A1 and A2, being her husband and mother-in-law respectively, are also present in person and produced their Aadhaar cards in proof of their identity. In the Joint Memo filed by both parties, duly signed by each of them and also their learned counsel, the second respondent-wife stated that in the light of the matter having been settled, she has no objection to the quashing of the proceedings in the pending case. The second respondent-wife also filed affidavit dated 23.04.2019 in support of I.A.No.1 of 2019, wherein she stated that due to intervention of elders, she and the first petitioner-husband settled their issues and are now staying together.

Though an offence under Section 406 IPC is compoundable under Section 320 CrPC and the offence under Section 498-A IPC is made 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 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

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

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 aforesaid legal position, this Court sees no purpose served in wasting the State's resources in prosecuting C.C.No.350 of 2017.

In that view of the matter, I.A.Nos.1 and 2 of 2019 are ordered. In consequence, CrI.P.No.2355 of 2019 is allowed quashing the proceedings in C.C.No.350 of 2017 on the file of the learned XIII Additional Chief Metropolitan Magistrate, Hyderabad.

SANJAY KUMAR, J

25th APRIL, 2019

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