

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NOS.2 AND 3 OF 2019 IN CRIMINAL PETITION NO.2403 OF
2019 AND CRIMINAL PETITION NO.2403 OF 2019

COMMON ORDER

CrI.P.No.2403 of 2019 was filed by A.1 to A.3 in C.C.No.874 of 2019 on the file of the learned XXI Metropolitan Magistrate, Cyberabad at L.B.Nagar, under Section 482 CrPC, to quash the proceedings therein. The said Calendar Case arose out of Crime No.291 of 2017 on the file of the Shahmeerpur Police Station, Cyberabad, registered under Section 498-A, 323 and 504 IPC along with Sections 3 and 4 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 differences amicably and in consequence, I.A.Nos.2 and 3 of 2019 were filed in this criminal petition to permit recording of the compromise and to quash the proceedings in the pending case by compounding the offences therein.

In terms of the Joint Compromise Memo filed by the second respondent-wife and the petitioners herein, being her husband, mother-in-law and father-in-law respectively, the marriage has already been dissolved by way of a decree of divorce in F.C.O.P.No.165 of 2019 on the file of the learned Judge, Family Court, Ranga Reddy District at L.B.Nagar. The first petitioner-husband agreed to pay a sum of Rs.3,00,000/- in full and final settlement of the permanent alimony claim of the second respondent-wife on the date of grant of divorce and he further agreed to return the gold ornaments belonging to the second respondent-wife on the date of withdrawal of the pending case in C.C.No.874 of 2019.

The second respondent-wife and the petitioners/A.1 to A.3 are present in person and produced their Aadhaar cards in proof of their identity. The second respondent-wife stated in person that she already received the sum of Rs.3,00,000/- in full and final settlement of her permanent alimony claim. The gold ornaments belonging to the second respondent-wife, being a long gold chain with gold pendant, a gold necklace and a gold chain along with a pair of ear rings and one ring, are handed over to the second respondent-wife in open Court. She stated that in the light of the compromise arrived at by her with the accused, she has no objection to the proceedings in the pending case being quashed.

Though an 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, and offences under Sections 323 and 504 IPC are also compoundable under Section 320 CrPC, 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

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

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 the State's resources in prosecuting C.C.No.874 of 2019.

In that view of the matter, I.A.Nos.2 and 3 of 2019 are ordered. In consequence, CrI.P.No.2403 of 2019 is allowed quashing the proceedings in C.C.No.874 of 2019 on the file of the learned XXI Metropolitan Magistrate, Cyberabad at L.B.Nagar. I.A.No.1 of 2019 shall stand closed.

SANJAY KUMAR, J

26th APRIL, 2019

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