

HON'BLE SRI JUSTICE K. LAKSHMAN

CRL.P. No.7076 OF 2019 ALONG WITH I.A. Nos.2 & 3 OF 2019

AND

CRL.P. No.7695 OF 2019 ALONG WITH I.A. Nos.2 & 3 OF 2019

COMMON ORDER:

Criminal Petition No.7076 of 2019 is filed by the husband and his relatives under Section - 482 of the Code of Criminal Procedure, 1973 (for short 'Code') to quash the proceedings in C.C. No.26 of 2012 on the file of the Judicial Magistrate of First Class, Jangaon (arising out of Crime No.60 of 2011 of Maddur Station). Whereas, Criminal Petition No.7695 of 2019 is filed by the wife and her relatives to quash the proceedings in C.C. No.315 of 2011 on the file of the very same Magistrate (arising out of Crime No.52 of 2011 of the very same Police Station).

2. The petitioners in Crl.P. No.7076 of 2019 are accused Nos.1, 2, 4, 6, 7, 10 and 12 in C.C. No.26 of 2012. However, after obtaining permission from the Superior Officers, the names of accused Nos.3, 5, 8, 9, 11 and 13 to 17 were deleted from the case. As per memo dated 07.04.2021 filed along with Photostat copy of death certificate, accused No.2 - Nachagoni Rajaram died on 04.02.2020. The offences alleged against them are under Sections - 498A & 494 of IPC and Sections - 3 and 4 of the Dowry Prohibition Act, 1961.

3. Respondent No.2 - *de facto* complainant and petitioner No.1 - accused No.1 in Crl.P. No.7076 of 2019 are wife and husband.

4. The petitioners in Crl.P. No.7695 of 2019 are accused Nos.1 to 14 in C.C. No.26 of 2012. The offences alleged against them are under Sections - 143, 452, 427, 506 and 324 read with 149 of IPC.

5. Crime No.60 of 2011 arises out of a counter complaint lodged by the wife against her husband, his second wife and their relatives to the complaint lodged by her husband in Crime No.52 of 2011 with the very same police station.

6. In view of the above, the allegations and the parties are almost similar and interlinked and, therefore, both these petitions are disposed of by way of a common order.

7. I.A. Nos.2 and 3 of 2019 are filed separately by the wife and husband in both the petitions seeking to permit them to enter into compromise so as to compound the offences against them and others by recording the compromise and quashing the proceedings in the aforesaid cases.

8. For the sake of convenience, petitioner No.1 - accused No.1 in Crl.P. No.7076 of 2019 in C.C. No.26 of 2012 will be referred to as 'husband', while petitioner No.1 - accused No.1 in Crl.P. No.7695 of 2019 in C.C. No.315 of 2011 will be referred to as 'wife'.

9. Heard Mr. Jalli Kanakaiah, learned counsel appearing on behalf of the husband and his relatives and Mr. Anantula Ravinder, learned counsel appearing on behalf of the wife and her relatives, and also learned Assistant Public Prosecutor appearing on behalf of respondent No.1 - State.

10. The learned counsel appearing on behalf of wife and husband would submit that after lodging the complaint and counter complaint with the police against each other and after registering the same, both the parties have come forward to settle the matter amicably at the instance of elders and well-wishers. Accordingly they filed joint memos before this Court in the above criminal petitions to permit them to enter into compromise and to compound the offences by quashing the proceedings against them. They would further submit that in support of the said compromise, the wife and husband filed the affidavits in support of petitions in I.A. Nos.2 and 3 of 2019 separately and, therefore, they requested to compound the offences and quash the proceedings against them in both the cases.

11. After recording the submissions of both sides, this Court vide order dated 15.02.2021 directed both the parties to appear before the Registrar (Judicial - I) of this Court for their identification, with a direction to the Registrar to submit his report by 03.03.2021. Accordingly, the Registrar has submitted his report on 02.03.2021 stating that despite sending messages to the learned counsel for the parties to appear before him, none appeared before him and, therefore,

he could not record the identification of parties. Even then, basing on the compromise entered between the parties and the affidavits filed in support of petitions in I.A. Nos.2 and 3 of 2019 and the joint memo filed therein, it has to be seen whether the parties entitled for compounding the offences or not?

12. It is relevant to mention the allegations against the wife and her relatives as per the charge sheet filed by the police in C.C. No.315 of 2011, which are as follows:

- (i) Accused No.1 - Nachagoni Kavitha is the first wife of LW.1, Natagoni Venkat Goud. Accused Nos.2 to 14 are her parents, brothers and other relatives. LW.2 - Nachagoni Padma is the second wife of her husband;
- (ii) her husband developed illegal intimacy with LW.2 and brought her to his house and staying with her;
- (iii) several panchayats were held wherein it was advised to pay compensation and live together with both wives;
- (iv) since then, the first wife has been staying separately and now and then in both the houses;
- (v) the first wife has been neglecting her husband;
- (vi) on 23.08.2008, while the husband was at his agricultural fields, the first wife along with her parents, brothers and other relatives formed themselves into unlawful assembly, criminally trespassed into the house of her

husband, who is staying with LW.2, damaged the household articles;

(vii) on receipt of information through LW.3, husband rushed to his house and tried them to stop, on which they abused him in filthy language and beat him with hands causing injuries to him and also threatened him with dire consequences;

(viii) then, the husband lodged a complaint with the Police, who in turn registered a case in Crime No.52 of 2011 for the offences under Sections - 143, 452, 427, 506 and 323 read with 149 of IPC;

13. After completion of investigation, the police filed charge sheet against the first wife, her parents, brothers and relatives and the same was taken on file vide C.C. No.315 of 2011 by the learned Judicial Magistrate of First Class at Jangaon for the aforesaid offences.

14. Whereas, the allegations against the husband, his second wife and their relatives as per the charge sheet filed by the police in C.C. No.26 of 2012 are as follows:

(i) accused No.1, Nachagoni Venkat Goud, is husband of de facto complainant, Kavitha, and their marriage was held on 24.02.2020;

- (ii) at the time of marriage, on the demand of husband, the parents of wife gave net cash of Rs.2,50,000/-, 15 tulas of gold, 50 tulas of silver and Rs.50,000/- for purchase of TVS Victor vehicle and other house-hold articles;
- (iii) after marriage, the parties lived happily for a period of six months and out of their wedlock they were blessed with two children;
- (iv) accused No.1 invested the amount in real estate business by staying at Hyderabad and later he started demanding additional dowry amount from her parents to invest in Brandy shops at Nirmal and Kamareddy, and he used to beat her, and neglected their children;
- (v) subsequently, the wife came to know that her husband got married accused No.12 with the support of accused Nos.2, 4, 6, 7 and 10 and they were blessed with two children;
- (vi) a *panchayat* was held on 25.05.2011 in Dulimitta village in the presence of elders wherein the husband has agreed to get his 3 acres of agricultural land, plots registered in the name of wife from that date and to take care of the wife and children and further agreed to deposit Rs.2,00,000/- in the name of wife, but the husband did not honour the said commitments. In the said context, an altercation took place which led to registering a case in Crime No.52 of 2011;

15. Basing on the said complaint, the very same police registered a case in Crime No.60 of 2011 against the husband, his second wife and their relatives

16. The police after completion of investigation filed the charge sheet and the same was numbered as C.C. No.26 of 2012 by the very same Court.

17. In view of the above, *prima facie*, there are specific allegations made against the husband i.e. accused No.1 in C.C. No.26 of 2012 that he got married accused No.12 during subsistence of his first marriage with *de facto* complainant. Even in the charge sheet filed pursuant to the complaint lodged by the husband against his first wife and her relatives, the police have mentioned that LW.2 is his second wife. It is relevant to note that a party contracting a second marriage during the subsistence of the first one is a serious offence and will have a serious impact on the society at large. More over, it is neither a matrimonial dispute between the spouses, nor a commercial / civil dispute. In this regard, it is relevant to mention the parameters laid down by the Apex Court in **the State of Madhya Pradesh v. Laxmi Narayan**¹ which are as under:

“i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the

¹ 2019 (5) SCC 403

civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) x x x x;

iv) x x x x;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

18. In view of the above discussion and also considering the parameters laid down by the Apex Court in **Laxmi Narayan**¹ and also considering the fact that the offences alleged against the husband and his second wife are the offences which will have a serious impact on the society at large, this Court is not inclined to quash the proceedings

in the aforesaid crime merely on the ground that the parties have entered into compromise.

19. Accordingly, I.A. Nos.2 and 3 of 2019 in Crl.P. Nos.7076 of 2019 and 7695 of 2019 are dismissed and consequently both the Criminal Petitions are also dismissed.

As a sequel, miscellaneous petitions, if any, pending in both the Criminal Petitions shall stand closed.

22nd June, 2021
Mgr

K. LAKSHMAN, J