

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 12719 of 2018

ORDER :

The petitioners are accused in C.C.No. 1776 of 2018 on the file of the Court of Judicial Magistrate of First Class, Suryapet, Nalgonda district, registered and taken cognizance for the offences punishable under section 494 and 498-A of I.P.C. It is the out-come of Crime No. 16 of 2015 of Penpahad Police Station, dated 02-03-2015 for the offences registered supra and the Police after investigation by examination of first respondent - *de facto* complainant and other circumstantial witnesses including the mother and brother of *de facto* complainant, as LWs 1 to 15 including the Investigation Officer and eye-witnesses, who are LW-8, 11, 12 and 13, filed the final report. Charge sheet was dispatched and signed on 25-03-2015.

2. The contentions in the quash petition are that besides the criminal case supra, there was a maintenance case pending on the file of the Court of Judicial Magistrate of First Class, Suryapet, filed by the first respondent and also a D.V.C.No.9 of 2015 filed by her pending on the file of Judicial

Magistrate of First Class, Suryapet and during pendency of the same subsequent to the filing of the charge sheet there was settlement of all the matters before Lok Adalat at Suryapet, vide LAC.No. 346 of 2015 and LAC.No. 348 of 2015, dated 12-09-2015 and both the cases were closed as per the terms of the compromise; maintenance case and DVC. There was an undertaking to withdraw the criminal case supra, covered by Crime No.16 of 2015 of Police Station Penpahad.

3. It is the contention there from that despite there was compromise and settlement including withdrawing the criminal case, the non-withdrawal and continuation of proceedings is nothing but abuse of process of law and cannot be allowed to continue.

4. The learned counsel for the petitioner reiterated the same.

5. It is the submission of the learned Public Prosecutor representing the second respondent and the *de facto* complainant for first respondent that there are no grounds to quash the petition and it is a non-compoundable offence and the *de facto* complainant has no right to compound once it is a non-compoundable offence any assurance even allegedly

given or so called crime to withdraw the crime will not bind nor there is a statutory binding, the quash petition is liable to be dismissed.

6. It is one of the submissions of the learned counsel for the *de facto* complainant that there is nothing showing the proof of compliance at the so-called compromise terms before the Lok Adalat referred supra, thereby the proceedings cannot be quashed.

7. As per the expression of the Apex Court in RUCHI AGARWAL V/s. AMIT KUMAR ¹., once there was settlement and compromise, no-doubt in that case for the offence punishable under section 498-A, 323 and 506 IPC and section 3 and 4 of Dowry Prohibition Act, and the compromise terms also refers about the withdrawal of the criminal case, the continuation of which is nothing but abuse of process as only meant to harass cannot be allowed. Thereby in that case on facts Crime No.224 of 2003 of Bilaspur Police Station of Kanpur district was quashed. For that conclusion also, referred earlier expressions of the Apex Court. In this case also, it is the submission of the counsel for the petitioner that in view of the compromise the proceedings are liable to be quashed. It is the duty of the

¹) 2005 (1) ALT CRIMINAL SC-101

Court to refer the Lok Adalat Award Nos. 346 and 348 of 2015 respectively, M.C.No. 8 of 2015 and DVC.No.9 of 2015. In the Awards out of the eight paras so far as LAC.No. 346 of 2015 is concerned, para five speaks of petitioner further agreed that she will withdraw the criminal case vide Cr.No. 16 of 2015 of Police Station Penpahad and Crime No. 76 of 2015 of Police Station Kodad town against the respondents. Even LAC.No. 348 of 2015, para third repeats the same. No doubt in both the awards as per the terms of compromise filed condition No.2 speaks of respondent-husband of the Lok Adalat Award petitioner-wife agreed to pay or deposit Rs.10,000/- per month by fifth of every month towards maintenance including if she furnishes her account to the account direct and para no.3 speaks in terms of the compromise respondent-husband agreed to give house-plot bearing No.19 to an extent of 366.64 sq.yards in survey Nos.723, 722/5, 722/12 and 722 situated at Plot No.4 of Kodad town and Mandal and also agricultural land to an extent of 0-02 guntas in survey No.664/3/1, another extent of Ac:0-16 guntas in survey No.665/2/1, another extent of Ac:0-28 guntas in survey No. 656/1 and another extent of Ac:0-05 guntas in survey No. 650/2/A and another extent of

Ac:0-14 guntas in survey No. 577/A at Seethla thana of Chilukuru Mandal, Nalgonda district, to the petitioner-wife and he also agreed that after his death, she has to enjoy the same without any interference of the family members of him and she agreed for the same. There is an attempt to show any registered document consequent to that executed in compliance with the same to consider the request for quashing of the proceedings.

8. Having regard to the above, the petition rather than dismissal, disposed of with the observation that in the event of any document executed to comply with the condition No.3, the petitioners can move the trial Court and trial Court by virtue of this Order close the Proceedings.

9. In the result, the Criminal Petition is disposed of.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

03-01-2019

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HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 12719 of 2018

**[RESULT : DISPOSED OF]
(41-A)**

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