

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 1983 of 2018

ORDER:

The present Criminal Petition is filed by the petitioners/ accused Nos.1 to 3 under Section 482 of Cr.P.C., seeking to quash the proceedings initiated against them in C.C.No.974 of 2017 on the file of the XIX Metropolitan Magistrate, Cyberabad, Kukatpally, Miyapur. A charge sheet came to be filed against the petitioners/ accused Nos.1 to 3 for the offences punishable under Sections 498-A and 420 of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

On a complaint given by the 1st respondent/ *de facto* complainant, who is the wife of the 1st petitioner/ accused No.1, a case in Crime No.657 of 2017 was registered against the petitioners/ accused Nos.1 to 3 for the aforesaid offences. It is alleged in the complaint that the marriage between the 2nd respondent/ *de facto* complainant and the 1st petitioner/ accused No.1 took place in the month of April, 2016 and at the time of engagement her parents had given an amount of Rs.5.00 lakhs towards dowry and Rs.4.00 lakhs as Adapaduchu katnam. After the marriage, the 1st respondent/ *de facto complainant* joined the company of the 1st petitioner/ accused No.1 and they lived happily quite for some time. Subsequently, the petitioners/ accused Nos.1 to 3 started harassing her mentally and physically and demanded her to get additional dowry and her parents transferred a sum of

Rs.5.00 lakhs each into the accounts of 1st petitioner/ accused No.1 and his mother 3rd petitioner/ accused No.3. Even after fulfilled their illegal demands, the petitioners/ accused Nos.1 to 3 did not change their attitude and demanded for additional dowry. After completion of investigation, the police filed charge sheet, which was taken cognizance as C.C.No.974 of 2017 and the same is pending before the XIX Metropolitan Magistrate, Cyberabad, Kukatpally, Miyapur.

Though the matter was posted today on the request made by the learned Counsel for the 1st respondent/ *de facto* complainant, none appeared on her behalf. Hence, heard the learned Counsel for the petitioners/ accused Nos.1 to 3 and learned Additional Public Prosecutor appearing for the 2nd respondent/ State.

Learned Counsel for the petitioners/ accused Nos.1 to 3 submitted that pursuant to the orders of the Hon'ble Supreme Court in Transfer Petition (Civil) No.899 of 2019, dated 08.05.2019, the matter was referred to Mediation and Arbitration Center, High Court, Hyderabad, where a settlement agreement was entered into between the parties. As per the settlement agreement, the petitioners/ accused Nos.1 to 3 agreed to pay an amount of Rs.33,00,000/- towards full and final settlement and the 1st respondent/ *de facto* complainant has received the said amount through D.D.No.894476, dated 20.06.2019, drawn on State Bank of India, Gandhinagar, Vijayawada and both the parties agreed to go for mutual consent divorce and settle the cases filed against each other. The 1st petitioner/ accused No.1 also agreed to deposit

interim maintenance granted by the II Additional Junior Civil Judge-cum-X Additional Metropolitan Magistrate, Kukatpally, in D.V.C.No.300058 of 2018 in to the account of the 1st respondent/ *de facto* complainant. After receiving the agreed amount and on 10.10.2019 when the matter was called before the trial Court, the 1st respondent/ *de facto* complainant reported that she would continue the case. As such, the petitioners/ accused Nos.1 to 3 filed I.A.No.4 of 2019 to stay all further proceedings in the above C.C. He further submits that in view of the conduct of the 1st respondent/ *de facto* complainant, continuation of proceedings against the petitioners/ accused Nos.1 to 3 would be an abuse of process of law. In support of the his submission, he relied on the judgment of the Apex Court in *Ruchi Agarwal v. Amit Kumar Agrawal and others*¹.

Learned Additional Public Prosecutor submits that there are specific allegations against the petitioners/ accused Nos.1 to 3 and the contents of the charge sheet *prima facie* establish the offences alleged against them.

A perusal of the record reveals that pursuant to the orders of the Hon'ble Supreme Court in Transfer Petition (Civil) No.899 of 2019, dated 08.05.2019, the matter was referred to Mediation and Arbitration Center, High Court, Hyderabad, where a settlement agreement was entered into between the parties. The terms of settlement are as under:

¹ (2005) 3 SCC 299

1. Both the parties have agreed to go for mutual consent divorce and they further agreed to settle the cases filed against each other pending between them at different courts as follows:-

Vendra Ramya as Petitioner:

- i. C.C.No.974 of 2017 (FIR No.657 of 2017, KPHB Police Station), pending on the file of II AJCJ-cum-X Addl. Metropolitan Magistrate, Kukatpally, will be closed on the next date of hearing.
- ii. D.V.C.No.58 of 2018 pending on the file of II AJCJ-cum-X Addl. Metropolitan Magistrate, Kukatpally, will be closed on the next date of hearing.

Vikas as Petitioner:

- i. C.C.No.24 of 2019 (FIR NO.182 of 2019, Kukatpally Police Station) in Prl. Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Kukatpally, will be closed on the next date of hearing.

High Court cases : Vikas as Petitioner:

- i. Criminal Petition No.1983 of 2018 pending on the file of the High Court for the State of Telangana, will be closed on the next date of hearing.
 - ii. TRCRLP No.45 of 2019 pending on the file of High Court for the State of Telangana, will be closed on the next date of hearing.
 - iii. TRCRLP No.46 of 2019 pending on the file of High Court for the State of Telangana, will be closed on the next date of hearing.
2. The petitioner (wife) has been paid an amount of Rs.33,00,000/- (Rupees Thirty Three Lakhs only) towards full and final settlement by the respondent (husband) vide D.D.No.894476, dated 20.06.2019, State Bank of India, Gandhinagar, Hyderabad.

3. The respondent has agreed to deposit the interim maintenance granted by the II AJCJ-cum-X Addl. Metropolitan Magistrate, Kukatpally in DVC No.300058 of 2018 into the account of Pamyra Vendra bearing Account No. 912010024068489, Axis Bank, IFSC Code: UTIB00000008 till the date of settlement i.e., 21.06.2019.
4. The petitioner and respondent have also agreed not to post in social media and anything regards to family or personally.

After the said settlement, the 1st respondent/*de facto* complainant had stated before the trial Court on 01.07.2019 that she intends to compound the offences against the accused. Subsequently, on 10.10.2019, the 1st respondent/*de facto* complainant reported before the learned Magistrate that she would continue the case. From the above, it is clear that after receiving the final settlement amount, the 1st respondent/*de facto* complainant has taken a 'U' turn and giving good bye to the terms and conditions as set forth in the settlement agreement, reported before the trial Court that she would continue the case, which shows that she is bent upon to take vengeance against the petitioners in order to settle her scores.

In Ruchi Agarwal v. Amit Kumar Agrawal and others case (1 supra), the Apex Court observed as under:

“6. From the above narrated facts, it is clear that in the compromise petition filed before the Family Court, the appellant admitted that she has received Stridhan and maintenance in lump sum and that she will not be entitled to maintenance of any kind in future. She also

undertook to withdraw all proceedings civil and criminal filed and initiated by her against the respondents within one month of the compromise deed which included the complaint under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of Dowry Prohibition Act from which complaint this appeal arises. In the said compromise, the respondent- husband agreed to withdraw his petition filed under Section 9 of the Hindu Marriage Act pending before the Senior Judge, Civil Division, Rampur and also agreed to give a consent divorce as sought for by the appellant.

7. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13(B) of the Hindu Marriage Act and in partial compliance of the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises.

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9. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings.”

In view of the observations made by the Apex Court in the above referred case and having regard to the terms of settlement dated 21.06.2019 before the Mediation and Arbitration Centre, High Court for the State of Telangana, both the 1st petitioner/ Accused No.1 and the 1st respondent/ de facto complainant agreed that they

will withdraw all the allegations made by them against each other, I am of the considered view that continuation of criminal proceedings against the petitioners/accused Nos.1 to 3 is nothing but an abuse of the process of Court and that the powers under Section 482 Cr.P.C. have to be exercised in the present case.

For the aforementioned reasons, the Criminal Petition is allowed and the proceedings in C.C.No.974 of 2017 on the file of the XIX Metropolitan Magistrate, Cyberabad, Kukatpally, Miyapur, against the petitioners/accused Nos.1 to 3 for the offences punishable under Section 498-A and 420 of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961, are hereby quashed.

As a sequel thereto, I.A.No.4 of 2019 and other miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

12.02.2020
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