



Crl.O.P.No.7735 of 2021

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WEB C **M.NIRMAL KUMAR, J.**

This case is listed today [10.03.2023] under the caption 'for being mentioned' at the instance of the learned counsel for the petitioner.

2.This Court passed an order on 28.04.2021 in Crl.O.P.No.7735 of 2021 allowing the petition, setting aside the order passed in Crl.M.P.No.124 of 2020 in C.A.No.21 of 2015 by the learned Additional District Judge [FTC] at Arani dated 17.03.2020, on the terms of the joint memo of compromise entered between the petitioners who are none other than husband and wife whose relationship got estranged and thereafter litigations between them erupted, finally they arrived at a compromise, now all the litigations have been put at rest.

3.Learned counsel for the petitioner submitted that this case originated on the complaint of the defacto complainant who lodged a complaint with All Women Police Station, Arani for the offence under Section 498A IPC. On conclusion of investigation, charge sheet filed in



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C.C.No.123 of 2012, after trial, the Trial Court convicted the petitioner under Section 498A and sentenced him to undergo two years rigorous imprisonment and imposed a fine of Rs.5,000/-. Aggrieved against the same, the petitioner preferred an appeal in C.A.No.21 of 2015, before the learned Additional District Judge [FTC], Arani. He further submitted that during the pendency of the appeal, the issues between the petitioner/husband and the defacto complainant got resolved, and a petition under Section 320 Cr.P.C. filed seeking for compounding of offence in Crl.M.P.No.124 of 2020. The Lower Appellate Court though alive to the compromise arrived between the petitioner/husband and the defacto complainant/wife dismissed the petition for the reason that under Section 320(5) Cr.P.C. the offence shown in the table of Section 320(1) or 320(2) Cr.P.C. alone can be compounded. The offence under Section 498A IPC does not fall in either of the tables. Thereafter, the petitioner approached this Court and this Court passed an order in Crl.O.P.No.7735 of 2021 dated 28.04.2021 compounding the case. Learned counsel now points out that in paragraph No.2 of the order in Crl.O.P.No.7735 of 2021, it was recorded as

“The case is still at the stage of investigation. By passage of time, the



parties have decided to bury their hatchet and compromise the dispute

amicably among themselves.” Factually it is not so. In this case, after investigation charge sheet filed in C.C.No.123 of 2012 and after full-fledged trial, the petitioner/husband was convicted and thereafter, appeal filed in C.A.No.21 of 2015, during pendency of the appeal this Court was approached and the case got compounded.

4.In view of the same, paragraph No.2 of the order in Crl.O.P.No.7735 of 2021 to be read as ***“The case is pending appeal in C.A.No.21 of 2015. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.”***

5.As regards the penultimate paragraph No.5, the learned counsel for the petitioner seeks further clarification and submits that recently the Apex Court in the case of ***Ramgopal and another vs. The State of Madhya Pradesh*** reported in ***2021 SCC Online SC834*** following the judgments in ***Gian Singh vs. State of Punjab [(2012) 10 SCC 303]*** and ***State of Madhya Pradesh vs. Laxmi Narayan and others [(2019) 5 SCC 688]***, reiterated the principle of compounding the non-compoundable offence under Section 482



Cr.P.C. to do real and complete justice. This Court considering the submissions finds it apposite to extract the same which is as follows:

'10.The compendium of these broad fundamentals structured in more than one judicial precedent, has been recapitulated by another 3-Judge Bench of this Court in State of Madhya Pradesh vs. Laxmi Narayan & Ors. Elaborating:

“(1)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 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;

(2) 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;

(3) Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(4) xxx xxx xxx



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(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of noncompoundable 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.”
(Emphasis Applied)

11.True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in



view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.'

6.In view of the above, it is made clear that paragraph No.5 of the order in Crl.O.P.No.7735 of 2021 to be read as follows:

“5.Finding that the dispute is between husband and wife, a matrimonial dispute, predominantly private in nature, hence the order dated 17.03.2020 in Crl.M.P.No.124 of 2020 in C.A.No.21 of 2015 [Renumbered as Crl.A.No.7 of 2017] on the file of the Court of Additional District Judge [FTC], Arani, Tiruvannamalai District is set aside and the offence is compounded. In view of the same, the proceedings in Crime No.7 of 2012 is quashed and the consequential proceedings in C.C.No.123 of 2012 on the file of the learned Judicial Magistrate, Arani and C.A.No.21 of 2015 [Renumbered as Crl.A.No.7 of 2017] on the file of the



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Court of Additional District Judge [FTC], Arani, Tiruvannamalai District are also quashed. The terms of Joint Memo of Compromise shall form part and parcel of this order. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.”

7.Excepting the above modification, the order passed by this Court on 28.04.2021 remains unaltered in all other aspects. The Registry is directed to issue this modified order.

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