

**\* THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

+CRIMINAL PETITION No.1032 of 2013

%15-02-2021

# Pankaj Kumar Nimayat and others.

...petitioners /accused Nos.1 to 7

Vs.

\$ The State of A.P.through S.H.O  
Uppal Police Station, Ranga Reddy District,  
Rep.by Public Prosecutor, High Court, Hyderabad  
And another.

....Respondents

!Counsel for the Appellant: Mr.H.Prahalad

^Learned Counsel for Respondent No.2: G.Guru Murthy

<Gist :

>Head Note:

? Cases referred:

1. [(2012) 10 SCC 303]
2. [(2014) 6 SCC 466]
3. (2005) 3 SCC 299
4. (2020) 3 Supreme Court Cases 736

**HIGH COURT FOR THE STATE OF TELANGANA****MAIN CASE NO: CRIMINAL PETITION No.1032 of 2013****Between:**

Pankaj Kumar Nimayat and others.

**.. petitioners****And**

The State of A.P.through S.H.O  
Uppal Police Station, Ranga Reddy District,  
Rep.by Public Prosecutor, High Court, Hyderabad  
And another.

**.. Respondents****DATE OF JUDGMENT PRONOUNCED: 15.02.2021****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

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| 1. Whether Reporters of Local news papers<br>may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be<br>marked to Law Reporters/Journals      | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to<br>see the fair copy of the Judgment?  | Yes/No |

**THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY****CRIMINAL PETITION No.1032 of 2013****ORDER:**

This criminal petition is filed to quash the proceedings in C.C.No.607 of 2011 on the file of the III Metropolitan Magistrate, Ranga Reddy District, L.B. Nagar, wherein charge sheet has been laid against the petitioners – Accused Nos.1 to 7 for the offences under Sections 498-A of the Indian Penal Code, 1860 (IPC) and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short 'the D.P. Act').

2. The petitioners have raised several grounds in the quash petition. However, it may not be necessary for this Court to go into the merits of those grounds since it is represented by Mr. H. Prahalad Reddy, learned counsel for the petitioners, that O.P.No.380 of 2012 was jointly filed by respondent No.2 – *de facto* complainant – wife, and the petitioner No.1 – husband before the Family Court, Ranga Reddy District for mutual divorce wherein all the pending civil and criminal disputes have been settled. Learned counsel has drawn attention of this Court to clause No.6 of the mutual divorce petition wherein it was stated that the wife shall withdraw the present criminal case i.e. C.C.No.607 of 2011 on the file of the III Metropolitan Magistrate, Ranga Reddy District.

3. Sri G. Guru Murthy, learned counsel for the respondent No.2, states that compromise, in fact, has been entered into by the parties and that appropriate orders may be passed by the Court.

4. In the petition filed under Section 13-B of the Hindu Marriage Act, 1955, the parties have agreed upon certain terms and conditions and in pursuance thereof a decree of divorce by mutual consent was granted in OP.No.380 of 2012 dated 17.09.2013 on the file of the

Family Court, Ranga Reddy District, L.B. Nagar. The divorce decree, is part of the Court record vide USR.No.2831 of 2020.

5. The offence under Section 498-A IPC is compoundable. However, the offences under Sections 3 and 4 of the D.P. Act are not compoundable, (Section 8(2) of the D.P. Act). It is fairly settled by several judgments of the Supreme Court that the inherent power under Section 482 of the Criminal Procedure Code can be invoked to quash the criminal proceedings even in respect of non-compoundable offences when there is a settlement between the complainant/victim and the accused (see **GIAN SINGH v. STATE OF PUNJAB**<sup>1</sup> and **NARINDER SINGH v. STATE OF PUNJAB**<sup>2</sup>).

6. However, it has been reiterated time and again in several authoritative pronouncements of the Supreme Court that the inherent power under Section 482 Cr.P.C. is not to be exercised in prosecutions which involve heinous and serious offences and mental depravity viz. murder, rape, dacoity etc; the offences which are not private in nature and have serious impact on the society; the offences under special Statutes viz. the Prevention of Corruption Act, 1988, committed by public servants (see para 29.3 in **NARINDER SINGH** (2 supra)).

7. Criminal cases which have overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves (see para 29.4 in **NARINDER SINGH** (2 supra)).

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<sup>1</sup> [(2012) 10 SCC 303]

<sup>2</sup> [(2014) 6 SCC 466]

8. The High Court has to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal proceedings would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases (see para 29.5 in **NARINDER SINGH** (2 supra)).

9. Section 320 Cr.P.C., enlists several offences which are compoundable without permission of the Court and with permission of the Court. As observed supra, the inherent power under Section 482 Cr.P.C. can be exercised to quash the criminal proceedings even in non-compoundable offences where parties have entered into settlement. However, many of the judgments rendered by the Supreme Court, on this issue, relate to matters where the accused and the complainant/victim came forward to place on record the compromise entered into between them. Taking into consideration such compromise, the proceedings have been quashed invoking the power under Section 482 Cr.P.C.

10. However, in the instant case, there is no compromise recorded between the parties before this Court in the criminal proceedings. There is a compromise between the parties in a petition filed for mutual divorce under Section 13-B of the Hindu Marriage Act. The terms of the joint petition filed in OP.No.380 of 2012 before the Family Court, Ranga Reddy, L.B. Nagar, show that there are civil and criminal cases pending between the parties. Under Clause No.6, it is agreed that, *'wife has withdrawn both the criminal cases filed u/s 498 A IPC and Section 3 & 4 of D.P. Act in C.C.No.607/2011 & Cr.No.541/2011 u/s 120(B) and 420 against the Petitioner No.2 and his family members on the file of the III Metropolitan Magistrate, R.R. Dist; and another case in D.V.C.No.10.2013 on the file of II M.M. R.R. Dist filed under Domestic Violence Act and M.C.No.45/2012 the*

*file of the Family Court, R.R. Dist. At L.B. Nagar as the above cases were failed falsely on wrong advice...'. Though it is stated that the respondent No.2/wife has withdrawn the cases, apparently it is a typographical error. It has to be understood that parties have agreed to withdraw the cases. This Court is not concerned with DVC.No.10 of 2013, MC.No.45 of 2012 and Cr.No.541 of 2011. This Court is only concerned with C.C.No.607 of 2011, which is the subject matter of the instant petition.*

11. The Supreme Court in **RUCHI AGARWAL v. AMIT KUMAR AGARWAL**<sup>3</sup> quashed criminal proceedings arising out of offences under Sections 498-A, 323 and 506 IPC and Sections 3 and 4 of the D.P. Act taking into consideration the fact that the parties have arrived at a compromise by dissolving the marriage by mutual consent under Section 13-B of the Hindu Marriage Act. Pursuant to the compromise filed by the parties, in partial performance of the terms of the compromise, the complainant/wife withdrew the maintenance case filed under Section 125 Cr.P.C., but she did not withdraw the complaint from which the appeal before the Supreme Court arose (Section 498-A IPC). The Supreme Court took note of the contention of the wife that the compromise deed was filed under coercion and repelled such contention, in view of the fact that the marriage ended in mutual divorce and that the husband has performed his part of the obligation under the compromise by handing over the stridhana articles to wife and maintenance in lump sum, which was acknowledged by the wife. Having observed that the continuation of the criminal proceedings would amount to abuse of process of the Court, the Supreme Court quashed the criminal proceedings.

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<sup>3</sup> (2005) 3 SCC 299

12. Following the above decision of the Supreme Court, this Court is of the opinion that the criminal proceedings are liable to be quashed, not only for the reason that the parties have entered into compromise under mutual divorce petition before the Family Court in OP.No.380 of 2012 but also for the reason that the dispute arose out of matrimonial relationship.

13. In the recent decision of Hon'ble Supreme Court in **ARUN SINGH AND OTHERS Vs. STATE OF UTTAR PRADESH THROUGH ITS SECRETARY AND ANOTHER**<sup>4</sup>, it was held that offences under Section 3 and 4 of D.P. Act are offences against society and not private in nature; and such offences have serious impact on the society; even if the parties enter into settlement, the same cannot be a ground to quash criminal proceedings. The observations of the Hon'ble Supreme Court in **Arun Singh's** case (4 supra) in relevant paragraphs are extracted below:

14. In another decision in the case of Narinder Singh Vs. State of Punjab it has been observed that in respect of offence against the society it is the duty to punish the offender. Hence, even where there is a settlement between the offender and victim the same shall not prevail since it is in interests of the society that offender should be punished which acts as deterrent for others from committing similar crime. On the other hand, there may be offences falling in the category where the correctional objective of criminal law would have to be given more weightage than the theory of deterrent punishment. In such cases, the court may be of the opinion that a settlement between the parties would lead to better relations between them and would resolve a festering

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<sup>4</sup> (2020) 3 Supreme Court Cases 736

private dispute and thus may exercise power under Section 482 CrPC for quashing the proceedings or the complaint or the FIR as the case may be.

15. Bearing in mind the above principles which have been laid down, we are of the view that offences for which the appellants have been charged are infact offences against society and not private in nature. Such offences have serious impact upon society and continuance of trial of such cases is founded on the overriding effect of public interests in punishing persons for such serious offences. It is neither an offence arising out of commercial, financial, mercantile, partnership or such similar transactions or has any element of civil dispute thus it stands on a distinct footing. In such cases, settlement even if arrived at between the complainant and the accused, the same cannot constitute a valid ground to quash the F.I.R. or the charge-sheet.

14. In Arun Singh's case (4 supra), the issue before the Hon'ble Supreme Court was relating to a compromise said to have been entered into before a Police Officer and not related to a compromise entered into before a Court. The Hon'ble Supreme Court recorded contention of the learned counsel for the appellants therein that in view of compromise before Police, the complaint filed by the appellants under Section 156(3) Cr.P.C., was not pressed (see para 4 of Arun Singh's case (4 supra)).

15. In the instant case, the respondent No.2/*de facto* complainant agreed to withdraw all the civil and criminal cases instituted by her; she has agreed to withdraw all the defamatory allegations; It was further stated that criminal cases were filed on wrong advice; she does not have any kind of claim of damages and reliefs from the petitioner



No.2 (petitioner No.1 herein). These allegations regarding offences under Section 3 and 4 of the D.P. Act are unfounded; in any event very vague and omnibus, going by the contents of charge sheet. In the circumstances, continuance of criminal proceedings against the petitioners would amount to gross abuse of process of law and ends of justice would serve if the proceedings are quashed.

Accordingly, the criminal petition is allowed quashing the proceedings against the petitioners-A1 to A7 in C.C.No.607 of 2011 on the file of the III Metropolitan Magistrate, Ranga Reddy District, L.B. Nagar. Pending miscellaneous applications, if any, shall stand closed.

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B. VIJAYSEN REDDY, J

February 15, 2021

**Note:** LR Copy to be marked  
(B/o) KTL/DSK/LSK

