

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 20TH DAY OF AUGUST 2018

BEFORE

THE HON'BLE MR. JUSTICE K.N.PHANEENDRA

CRIMINAL PETITION No.200735/2018

Between:

1. Siddaramayya Swamy S/o Basayya Swamy
Age: 40 years, Occ: Govt. Employee
R/o Byagwat Village
Taluk: Manvi, Raichur-584 123
2. Veerbhadrayya S/o Basayya Swamy
Age: 32 years, Occ: Computer Operator
R/o Byagwat Village, Now R/o Basavanagar
Taluk: Manvi, District: Raichur-584 123
3. Veerupakshyya S/o Basayya Swamy
Age: 33 years, Occ: Agriculture
R/o Byagwat Village
Taluk: Manvi, Raichur-584 123
4. Manjunath S/o Basayya Swamy
Age: 38 years, Occ: Car Driver
R/o Byagwat Village, Now R/o Basavanagar
Taluk: Manvi, District: Raichur-584 123
5. Mallamma W/o Basayya Swamy
Age: 61 years, Occ: Household
R/o Byagwat Village
Taluk: Manvi, District: Raichur-584 123
6. Gouri W/o Veerupakshyya Swamy

Age: 29 years, Occ: Household
 R/o Byagwat Village, Now R/o Basavanagar
 Taluk: Manvi, District: Raichur-584 123

7. Shubha D/o Devendrao @ Sudendrarao
 Age: 37 years, Occ: Household
 R/o H.No.349-7, 3rd Cross Main Vinob Nagar
 Shivamogga,
 Taluk and District: Shivamogga-587 101
8. Umeshwarayya S/o Veereshayya Swamy
 Age: 38 years, Occ: Agriculture
 R/o Byagwat village
 Taluk: Manvi, District: Raichur-584 123
9. Nagaratna W/o Mallayya Swamy
 Age: 33 years, Occ: Household
 R/o Kaddinni Village
 Taluk: Manvi, District: Raichur-584 123
10. Mallayya Swamy S/o Basayya Swamy
 Age: 41 years, Occ: Agriculture
 R/o Kaddinni Village
 Taluk: Manvi, District: Raichur-584 123
 (Accused No.1 to 10)

... Petitioners

(By Sri Mahantesh Patil, Advocate)

And:

1. State of Karnataka
 R/by Addl.SPP
 High Court of Karnataka
 Kalaburagi Bench
 (Through Manvi Police Station
 District: Raichur)
2. Smt. Jaylaxmi W/o Siddaramayya
 Age: 34 years, Occ: Household

R/o Near Dhyan Mandir
H.NO.14-7-620A-35, Manvi Town
District: Raichur-584 123
(Complainant)

... Respondents

(By Sri Mallikarjun Sahukar, HCGP for R-1;
Sri Shivanand V.Pattanshetti, Advocate for R-2)

This Criminal petition is filed under Section 482 of Cr.P.C. praying to quash the proceedings in view of settlement in C.C.No.269/2018 (Crime No.198/2017) for offences punishable under Section 498A, 323, 504, 506, 307, 109 R/w 149 of IPC registered by Manvi P.S. Manvi Taluk, which is now pending on the file of JMFC, Manvi.

This petition coming on for admission, this day, the Court made the following:

ORDER

Petitioner Nos.1, 2, 5 and 10 are present before this Court. Respondent No.2 and counsel for respondent No.2 are also present. Sri Shivanand V.Pattanshetti files vakalathnama for respondent No.2, the parties have compromised the matter and filed an application seeking permission to compromise the matter and consequently to quash the proceedings as sought for in the main petition.

2. In the compromise petition, it is categorically stated, that the petitioner No.1 and respondent No.2 are

respectively husband and wife and their marriage was solemnized on 21.07.2008. Due to some matrimonial differences, the respondent No.2 lodged a complaint for the alleged offences and a criminal case has been registered by the police and after investigation a charge sheet has been laid against the petitioners in C.C.No.269/2018 on the file of JMFC, Manvi, as the matter has been compromised, the Court has to examine whether it is a fit case to quash the proceedings. Though Section 307 has been invoked, considering the factual aspects of the case and the respondent No.2 present before the Court, she has not sustained any serious injuries as such and submitted that, there was only an attempt to administer poison to her, but she has submitted before the Court that, she has joined her husband and presently petitioner No.1 and respondent No.2 are residing together and leading a happy life with each other.

3. It is worth to refer here, a decision of the Apex Court reported in **(2014) 6 SCC 466** between **Narendar Singh and others Vs. State of Punjab and Another,**

wherein the Apex Court has dealt with the compromise petition even for the offences under Section 307 of IPC and laid down certain principles that, though the offence under Section 307 is heinous and serious and generally to be treated as crime against society but the High Court has to form a view as to under what circumstance, it should accept the settlement between the parties and quash the proceedings, when it can refrain from doing so. Therefore, it is the wise discretion left to the Court while exercising the powers under Section 482 to exercise that power in a fit case:

Cr.P.C. Section 482—Quashment of proceedings on basis of settlement between parties—offence alleged under Section 307 IPC—Falls in the category of heinous and serious offences and generally to be treated as crime against society—Power of quashment in such cases—Guidelines laid down—Held, only because FIR/charge sheet incorporates provisions of Section 307 IPC would not, by itself, be a ground to reject the petition under Section 482 Cr.P.C. and refuse to accept the settlement between the parties—Quashment of proceedings

depends on facts and circumstances of each case—Detailed guidelines laid down (in para 29) for High Courts to form a view under what circumstances it should accept the settlement between the parties and quash the proceedings and when it should refrain from doing so—Cases where Court had approved quashing of proceedings under Section 307 of IPC and where it was rejected, considered—Penal Code, 1860, Section 307.”

4. It is worth to refer a decision of the Apex Court reported in **(2012) 10 SCC Page No.303** between **Gian Singh Vs. State of Punjab and Another** wherein the Apex Court laid down certain principles in what circumstance, the proceedings can be quashed particularly, when the dispute is between husband and wife. The said guidelines thus reads:

“Held, power of High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from power of a criminal Court of compounding offences under Section 320 Cases where power to quash criminal proceedings may be exercised where the parties have settled their

dispute, held, depends on facts and circumstances of each case—before exercise of inherent quashment power under Section 482, High Court must have due regard to nature and gravity of the crime and its societal impact.

Thus, held heinous and serious offences of mental depravity, murder, rape, dacoity, etc., or under special statutes like Prevention of Corruption Act or offences committed by public servants while working in their capacity as public servants, cannot be quashed even though victim or victim's family and offender have settled the dispute—such offences are not private in nature and have a serious impact on society.”

5. The above said principles are applied to the facts of this particular case, this case also falls within the categories of the case mentioned in the above said two cases. It is the dispute between the husband and wife and for various reasons, due to the matrimonial differences, the wife must have filed a complaint, after realizing the mistake she joined the company of the husband with a broad intention to take care of the children and to live happily with each other for the welfare of the children.

6. In the above said circumstances, if the trial Court order to be continued, there are no chances of the respondent No.2 supporting the case of the prosecution. Therefore, under the above said facts and circumstances, it is a fit case where the Court can exercise the powers under Section 482 of Cr.P.C., to permit the parties to compromise and to quash the proceedings as sought for. Hence, the following:

ORDER

Petition is allowed. Consequently the case in C.C.No.269/2018 pending on the file of JMFC, Manvi, for the offences punishable under Section 498-A, 354, 323, 504, 506, 109 R/w 149 of IPC and all further proceedings therein are hereby quashed so far as petitioners are concerned.

**Sd/-
JUDGE**

VNR