

Syed Nizamuddin, vs the State of Karnataka

Syed Nizamuddin, vs the State of Karnataka

SooperKanoon Citation : sooperkanoon.com/1885701

Court : Karnataka

Decided On : Mar-18-2024

Judge : S Vishwajith Shetty

Appeal No. : CRL.P/2405/2024

Appellant : Syed Nizamuddin,

Respondent : The State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF MARCH, 2024 BEFORE THE
HON'BLE MR JUSTICE S.VISHWAJITH SHETTY CRIMINAL PETITION
NO.2405 OF 2024 BETWEEN:

1. SYED NIZAMUDDIN, S/O SYED SHARFUDDIN, AGED ABOUT 32 YEARS,
2. ZIAULLA BAIG S/O AZMATHULLA BAIG AGED ABOUT 42 YEARS,

3. SYED SHARFUDDIN S/O SYED HUSSAIN, AGED ABOUT 55 YEARS,

4. SMT. HAFIZUNNISA Digitally W/O SYED SHARFUDDIN, signed by H AGED ABOUT 52 YEARS, K HEMA

Location: 5. SMT. SYED SADIQA KOUSER High Court

PETITIONER NOS.1 TO 5 ARE RESIDENTS OF LAKEVIEW COUNTRY APARTMENT, FLAT NO.11 C, FLOOR, A BLOCK, MANIPAL COUNTY ROAD, SINGASANDRA, BENGALURU-560 068. PETITIONERS (BY SRI A.S. KULKARNI, ADVOCATE) -2- AND:

1. THE STATE OF KARNATAKA BY EAST ZONE WOMEN POLICE STATION, BANGALORE-560 051 REPRESENTED BY STATE PUBLIC PROSECUTOR, HIGH COURT BUILDINGS, BANGALORE-560 001.

2. NUSRATH NOOR AYESHA W/O. SYED NIZAMUDDIN, AGED ABOUT 26 YEARS, RESIDING AT NO.86/A, HBR LAYOUT, 8TH CROSS, 9TH MAIN, YASEEN NAGAR, BENGALURU-560 045. RESPONDENTS (BY SMT. K.P. YASHODHA, HCGP FOR R.1; SRI SYED MUNAVER S.I., ADVOCATE FOR R.2.) THIS CRIMINAL PETITION IS FILED UNDER SECTION 482

OF CR.P.C., PRAYING TO QUASH THE CHARGE SHEET AGAINST THE PETITIONERS/ACCUSED NOS.1 TO 5 IN EAST ZONE WOMEN POLICE STATION CRIME NO.1/2023 (C.C. NO.25401/2023) FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 498-A, 323, 504, 506 AND 34 OF INDIAN PENAL CODE AND SECION 4 OF THE DOWRY PROHIBITION ACT, ON THE FILE OF THE LEARNED VI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING: -3-

ORDER

1. Petitioners, who are accused nos.1 to 5 in

C.C.No.25401/2023 pending before the Court of VI Additional Chief Metropolitan Magistrate, Bengaluru, arising out of Crime No.1/2023 registered by East Zone Women Police Station, Bengaluru for the offences punishable under Sections 498A, 323, 504, 506 and 34 of IPC and Section 4 of the Dowry Prohibition Act, 1961, are before this Court under Section 482 of Cr.P.C. with a prayer to quash the entire proceedings as against them in the aforesaid case.

2. Heard the learned counsel for the parties.

3. Learned counsel for the petitioners and learned counsel for

respondent no.2/Defacto complainant jointly submit that the dispute between the parties has been amicably settled at the intervention of well wishers and elders of both the parties. Accused no.1 and respondent no.2, who are husband and wife, have decided to separate and their marriage has already been dissolved. They submit that the parties have filed an application under Section 482 r/w 320 of Cr.P.C. supported by a joint affidavit with a prayer to permit the parties to compound -4- the offences for which charge sheet has been filed against the petitioners herein. The said application which is supported by the joint affidavit of parties is taken on record. In paragraphs 1 to 6 of the said joint affidavit, it has been averred as follows:

"1. The petitioner No.1 is husband and the respondent No.2 is his ex-wife. The petitioner Nos.2 to 5 are relatives of the petitioner No.1.

2. The respondent No.2 the ex-wife of petitioner No.1

initiated proceedings against the petitioners in the East Zone women Police Station, Shivajinagar, Bangalore in Crime No.01/2023 (C.C. No.25401/2023) for alleged offence punishable under Section 498-A, 504, 506 R/w. 34 of Indian Penal Code and Section 4 of the Dowry

Prohibition Act, on the file of the learned VI Addl. Chief Metropolitan Magistrate, Bengaluru.

3. Both the parties submit that at the instance of elders

and well-wishers the petitioners and Respondent No.2 settled their disputes amicably. Consequently, the marriage between the Petitioner No.1 and the Respondent No.2 was dissolved by executing "Khula- Nama" dated 04.03.2024.

4. The Petitioner No.1 - husband has agreed to pay a

sum of Rs.4,00,000/- (Rupees Four Lakhs only) to respondent No.2 wife by way of Demand Draft towards marriage expenses/maintenance/ permanent alimony as full and final settlement and has accordingly tendered D.D. No.503167 dated 19.02.2024 for a sum of -5- Rs.4,00,000/- drawn on ICICI Bank, Hosur Road, Bangalore. The copy of the D.D. is annexed.

5. The respondent No.2 submits that she has agreed to

co-operate in quashing of the charge sheet in the East Zone women Police Station, Bangalore in Crime No.01/2023 (C.C. No.25401/2023) for the alleged offence punishable under Section 498-A, 504, 506 R/w. 34 of Indian Penal Code and Section 4 of the Dowry Prohibition Act, on the file of the learned VI Addl. Chief Metropolitan Magistrate, Bengaluru, and has no objection to quash the said charge sheet.

6. In view of this settlement, we pray for quashing of

the charge sheet in the East Zone women Police Station Crime No.01/2023 (C.C. No.25401/2023) for the alleged offence punishable under Section 498-A, 504, 506 R/w. 34 of Indian Penal Code and Section 4 of the Dowry Prohibition Act, on the file of the learned VI Addl. Chief Metropolitan Magistrate, Bengaluru, in the interest of justice and equity."

4. The Hon'ble Supreme Court in the case of Gian Singh v. State of Punjab and Another reported in (2012)10 SCC 303 in paragraph 61 has observed as follows:

"61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under -6-

Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to

the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the

criminal case despite full and complete settlement and compromise

-7-

with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

5. Considering the fact that the dispute between the parties

is settled at the intervention of elders and the offences alleged are compoundable offences, I am of the opinion that the prayer made in the application seeking permission of this Court to compound the charge sheeted offences and also to quash the entire proceedings is required to be allowed.

6. Accordingly, I pass the following:

ORDER

(i) The prayer made in the application-I.A.No.1/2024

filed by the parties under Section 482 r/w 320 of Cr.P.C. to permit them to compound the offences for which charge sheet has been filed against the petitioners herein is allowed;

(ii) Consequently, the criminal petition is also allowed; -8-

(iii) The entire proceedings in C.C.No.25401/2023

pending before the Court of VI Additional Chief Metropolitan Magistrate, Bengaluru, arising out of Crime No.1/2023 registered by East Zone Women Police Station, Bengaluru for the offences punishable under Sections 498A, 323, 504, 506 and 34 of IPC and Section 4 of the Dowry Prohibition Act, 1961 as against the petitioners herein stands quashed.

Sd/- JUDGE hkh.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com