

THE HON'BLE SMT JUSTICE ANIS

CRL.P.M.P.No.2866 OF 2015

and

CRIMINAL PETITION No.2666 of 2015

COMMON ORDER:

This Criminal Petition is filed by the petitioners/A1 and A2 under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings against them in C.C.No.12 of 2015 on the file of the VII Additional Chief Metropolitan Magistrate at Hyderabad, which was taken on file for the offence punishable under Section 324 r/w.34 of the Indian Penal Code, 1860 (for short 'IPC').

2. Heard learned counsel for petitioners/A1 and A2 and learned counsel for respondent No.2/defacto complainant. The petitioners/A1 and A2 and the 2nd respondent/*d e* facto complainant are present. They produced Aadhar Cards issued by the Government of India, which show their identity. They were also identified by their counsel. They filed a joint compromise memo, wherein they stated that they have amicably settled the matter and defacto complainant has no objection to quash the proceedings against the petitioners. The contents of the compromise have read over to both the parties and both the parties agreed for the terms of the compromise.

3. The offence alleged is punishable under Section 324 r/w.34 of IPC. No doubt, the offence punishable under Section 324 of IPC is not compoundable. In *Gian Singh Vs. State of Punjab and another*, the Hon'ble Supreme Court held thus (para 57):

"The position that emerges from the above discussion can be summarized 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 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 victim's 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 pre-dominantly civil favour 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 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.”

4. In view of compromise, the chance of conviction is bleak and remote. Therefore, in view of the fact that the matter has been amicably settled and the offence punishable under Section 324 r/w.34 of IPC is compoundable, there is no impediment to quash the proceedings against the petitioners.

5. Accordingly, CrI.P.M.P.No.2866 of 2015 is allowed by compounding the offence. Consequently, the Criminal Petition is allowed, quashing the proceedings against the petitioners/A1 and A2 in C.C.No.12 of 2015 on the file of the VII Additional Chief Metropolitan Magistrate at Hyderabad. Miscellaneous

Petitions, if any, pending in this Criminal Petition shall stand closed.

JUSTICE ANIS

April 16, 2015

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THE HON'BLE SMT JUSTICE ANIS

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