

THE HON'BLE SMT. JUSTICE ANIS

Crl.R.C.M.P. No.846 of 2015

in/and

Crl.R.C. No.1025 of 2008

-

COMMON ORDER:

Both parties filed a joint memo to compound the offence.

Heard both sides.

The *de facto* complainant by name Bommasani Kotaiah, along with other victims Bommasani Srinivasarao, Bommasani Padma and Bommasani Siva Kumari, and the revision petitioners/accused by name Chittiboina Kotaiah, Chittiboyina Narasimha Rao, Mopuri Pitchayya, Mopuri Hari Babu, Chittiboyina Anjayya and Chittiboyina Yedukondalu are present and have read over the contents of the petition. Both parties agreed for compromise.

The offence punishable under Section 326 IPC is not compoundable. But considering the fact that the matter has been compromised, that even if the proceedings are to be continued, in view of compromise, the possibility of conviction is remote and bleak and in view of the decision reported in ***Gian Singh v. State of Punjab and another***, wherein it was 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.”

and as also reiterated in ***Dimpey Gujral and others v. Union Territory through Administrator, U.T. Chandigarh and others***, there is no impediment to compromise the matter.

In view of the petition filed for compounding the offence and having regard to the submissions of both the learned counsel, compromise is recorded in terms of accompanying compromise petition.

Accordingly, CrI.R.C.M.P. No.846 of 2015 is ordered by compounding the offence. Consequently, the CrI.R.C. filed questioning the judgment dated 26.06.2008 passed in Criminal Appeal No.182 of 2008 on the file of the X Additional District & Sessions Judge (Fast Track Court), Guntur at Narasaraopet, confirming the conviction and sentence dated 12.04.2005 passed in C.C.No.255 of 2003 on the file of the I Additional Judicial Magistrate of First Class, Narasaraopet, is allowed, thereby the revision petitioner/A.1 is acquitted for the offence punishable under Section 326 I.P.C and the revision petitioners/A.2 to A.6 are acquitted for the offence punishable under Section 326 read with 34 I.P.C.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

ANIS, J

Date: 31.03.2015

sr

-