

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
Crl.P.M.P.No.17188 of 2014 in Crl.P.No.15127 of 2014
and
Criminal Petition No.15127 of 2014

Common Order:

The Crl.P.M.P.No.17188 of 2014 is filed by the *defacto* complainant and accused under Section 482 r/w 320 Cr.P.C seeking permission of this Court to compromise the offences in P.R.C.No.79 of 2013 on the file of III Additional Chief Metropolitan Magistrate, Nampally at Hyderabad (FIR No.448 of 2011 of Banjara Hills P.S).

2) The factual matrix of the case is thus:

a) A report was given by S. Rohit Rao (LW.1) to the S.H.O, Banjara Hills P.S, Hyderabad on 08.05.2011 alleging that they are the owners of 600 Sq.yards in Plot No.314/A, Venkateswara Cooperative House Building Society, MLA Colony, Road No.12, Banjara Hills, Hyderabad and the said property was decreed in favour of his mother—S. Jayasree Rao by the V Senior Civil Court in 1999 which was upheld by the High Court of A.P in 2009 and same was upheld by Hon'ble Apex Court and Execution Petition was filed and ordered and executed in July, 2010 and the property existing on the said site was demolished and handed over to them by the Court on 26.07.2010 and subsequently, the aforesaid society allotted and registered 268 Sq.yards of land abutting to the 600 Sq.yards of site as there was no other access to the latter site.

Thus the complainant and his mother became owners of 868 Sq.yards and they were in physical possession of the same since 2010.

b) While-so on 08.05.2011 when they were leveling the ground with a proclainer, the accused illegally trespassed into the land at about 3:00pm and angrily waved his revolver at the complainant and his workers and threatened them to kill and he fired one round at the proclainer driver which missed and thereby the driver and the workers got scared and ran away and again the accused fired two rounds in air to threaten the complainant to kill and thereby the complainant and others were also scared and went away. On his report, the police registered a case in Crime No.448 of 2011 for the offence under Sec. 447, 307, 506 IPC and Sec. 27(1) of Arms Act and after investigation laid charge-sheet against the accused.

3) Now the submission of both parties is that at the intervention of elders and well-wishers of both parties, the complainant, his mother, the accused and one K. Pratap Reddy entered into an MOU on 28.07.2014 by settling their civil disputes in respect of the subject property and since the unfortunate events touching the criminal case have arisen only due to the civil disputes, the parties have resolved to amicably settle the criminal case also by seeking quashing of the proceedings in PRC No.79 of 2013 through compromise. However, since the offences under Sec.307 IPC and Sec.27(1) of Arms Act are not compoundable under Section 320 Cr.P.C,

the parties are invoking the inherent jurisdiction of this High Court under Section 482 Cr.P.C to accord permission to compromise the matter and quash the proceedings in PRC No.79 of 2013.

4) Learned counsel for both parties would submit that both parties are neighbours and they have resolved all their disputes amicably and the offences are purely private in nature and have no impact on the society and no useful purpose will be served even if the parties are driven to trial and therefore, permission may be accorded. They relied upon the decision reported in ***Yogendra Yadav vs. The State of Jharkhand***^[1].

5) Learned Public Prosecutor opposed the petition.

6) The point for determination is:

“Whether permission can be accorded to the parties to compromise the case?”

7) **POINT**: A perusal of the Case Diary file shows that the police have laid charge-sheet against the accused for the offences under Section 447, 307, 506 IPC and Sec.27(1) of Arms Act. Learned Magistrate accepted the charge-sheet and registered PRC No.79 of 2013 and it is informed to this Court that matter is at the stage of committal to the concerned Sessions Court. Of the above offences charged, the offences under Sec. 447 and 506 IPC are compoundable under Section 320 (1) Cr.P.C but the other offences are not compoundable either under Section 320 (1) or (2) Cr.P.C. Hence the point is

whether the High Court can exercise its inherent jurisdiction to accord permission to compromise. The law on this issue is no more *res integra*. Hon'ble Apex Court in its judgment reported in ***Gian Singh v. State of Punjab and another***^[2] laid down principles when the High Court can and cannot exercise its inherent jurisdiction in a situation like this. Hence, it is necessary to extract the relevant portion of the judgment.

“Para 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 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. (Emphasis supplied) 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 a 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.

a) The above principles would give an understanding that exercise of inherent jurisdiction depends upon the facts and circumstances of each case and if those facts and circumstances reveal the commission of heinous and serious offences like murder, rape, dacoity which are not private in nature and have a serious impact on society and also the offences under some special statutes like Prevention of Corruption Act or the offences committed by public servants in that capacity, the High Court shall not exercise its inherent jurisdiction in respect of such offences. However, if the commercial cases have overwhelmingly and pre-dominantly civil flavour such as the offences arising from criminal, financial,

mercantile, civil, partnership like transactions or the offences arising out of matrimony or the family disputes, the High Court can exercise its inherent jurisdiction.

b) When the facts of present case are vetted on the anvil of the above principles, the offences alleged do not appear to have committed purely out of civil disputes. If the charge-sheet allegations are accepted to be true, the accused after trespassing into the land had not only threatened the complainant but also all the persons who were present there including helpless workers and the proclainer operator (LW.2) and in fact fired one round at the said proclainer operator namely Sura Anjaneyulu. A perusal of 161 Cr.P.C statement of LW.2 would show that when accused fired one round with his revolver at LW.2, he providentially escaped unhurt and thereafter, the accused fired another round in the air and thereby all of them scared and fled away. In the light of these facts, the real victim of the offence is LW.2 rather than the complainant. Though it may sound hyper-technical thinking on the part of this Court, but a pertinent question would arise as to had the bullet unfortunately hit LW.2 and took his life or wounded him grievously, who would have fend his family. By facts, it is not a case where the accused directly approached the complainant and threatened him alone with his revolver out of the property dispute between them so as to be convinced that the offences alleged arose out of purely civil disputes and confined to the parties. Another pertinent question though again sound to be hyper-technical is that had the accused fired

at complainant and the bullet fortunately missed him, still whether the complainant with a large heart would have compromised with the accused. So a synthesis of the facts in the present case would not allow me to convince that the offences allegedly committed are pre-dominatingly of a civil flavour. On the other hand, though the dispute was a property dispute but the offence committed is against some unconnected third parties of the society and the victim got a providential escape. The record shows the accused was an Ex-MLA. If that were true, considering the nature of the offence, it must be said that he tried to commit a heinous offence being a law knowing person. Therefore, in my considered view, this Court cannot give a stamp of approval to the parties to compromise the heinous crime. In view of the facts peculiar to the present case, the cited decision (**Yogendra Yadav's** case (1 supra) wherein the Apex Court gave consent to compromise an offence under Section 307 IPC has no application.

8) In the result, permission to compromise is refused by dismissing the Crl.P.M.P.No.17188 of 2014. Consequently, the Crl.P.No.15127 of 2014 filed by the petitioner/accused to quash the proceedings in PRC No.79 of 2013 is also dismissed as lacking merits.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 02-02-2015
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[\[1\]](#) (2014) 9 SCC 653
[\[2\]](#) (2012) 10 SCC 303