

*** THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

+ Criminal Petition No.1150 of 2015

%22.04.2015

Between:

Sri Musku Srinivas Reddy. Petitioner

AND

Sri Musku Ram Reddy

and others. Respondents

! Counsel for Petitioner : Sri B. Prasanthi

^ Counsel for Respondents 1 to 4 : Sri D. Madhava Rao

^ Counsel for Respondent No.5 : Additional Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

1) (2014) 6 SCC 466

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.1150 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioner/defacto complainant prays to give direction to V Additional District and Sessions Judge, Medak at Sangareddy to quash the proceedings in Criminal Appeal No.115 of 2014 in view of compromise entered into by the *defacto* complainant and Accused Nos.1 to 4.

2) The facts briefly are that:

a. As per prosecution, on 02.08.2011 at about 8:30 am, when the *defacto* complainant (PW.1) and PWs.2 to 5 were leveling their fields, A.1 to A.4 who are their relatives came armed with sticks and iron rod and criminally trespassed into their fields and attacked them and caused injuries to them. On the report given by PW.1, the Police of BDL, Bhanoor P.S registered a case in Crime No.81/2011 and after investigation laid charge-sheet against them for the offences under Sec.447, 307, 506 r/w 34 IPC. The case was made over to Assistant Sessions Judge, Sangareddy and after full-fledged trial, learned Judge found A.1 to A.4 guilty of the offences under Sec.447, 307, 506 r/w 34 IPC and sentenced them.

b) Aggrieved, A.1 to A.4 preferred Criminal Appeal No.115 of 2014 before the V Additional District and Sessions Judge, Medak at Sangareddy and the same is pending.

3) Be that it may, now the parties filed the instant Criminal Petition seeking a direction to the Appellate Court to quash the proceedings in view of the compromise entered into by both parties. In the affidavit, the *defacto* complainant mentioned that at the intervention of family members he sorted out the issues amicably and he do not want to further prosecute the case and therefore, he has no objection for quashment of the proceedings in CrI.A.No.115 of 2014.

4) Heard learned counsel for petitioner and learned Additional Public Prosecutor.

5) The point for determination is:

“Whether direction can be given to learned V Additional District and Sessions Judge, Medak at Sangareddy as prayed for?”

6) **POINT:** Admittedly the accused were convicted and sentenced for the offences under Sec.307 IPC and appeal is pending. As such, the crucial point is, whether at this stage of the matter and in view of the

accused being convicted for a heinous crime, whether this Court in its inherent power under Sec.482 Cr.P.C can direct the concerned appellate Court to quash the proceedings since the parties wish to settle their disputes and compromise the matter. The law is no more *res integra* on this aspect. Hon'ble Apex Court in its decision reported in ***Narinder Singh and others vs. State of Punjab and another***, has exhaustively dealt with the inherent powers of High Courts under Sec.482 Cr.P.C and laid down guidelines as to when such powers can be exercised. Incidentally, Hon'ble Apex Court dealt with the power of High Court under Sec.482 Cr.P.C to quash the proceedings under Sec.307 Cr.P.C also. The Apex Court has laid down seven guidelines. Guidelines 6 and 7 are important in the present context. They are thus reproduced:

(VI): Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII): While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after

*the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 Indian Penal Code is committed or not. **Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.** (Emphasis supplied)*

7) Thus a perusal of guidelines No.6 would show that Apex Court categorized the offence under Sec.307 IPC as a heinous and serious offence and held to treat as crime against society and not against an individual alone. This guideline would show that though the FIR or the charge framed contains an offence under Sec.307 IPC, still at that stage it would be open for the High Court to examine the case either refuse or accept the settlement and quash the criminal proceedings. Thus Guideline No.6 essentially deals with the discretionary power of the High Court in dealing with the offence under Sec.307 I.P.C till trial stage.

8 a) Then Guideline No.7 deals with the timing of compromise sought for by the parties. It was observed that if the settlement was arrived at pending investigation or when the charges were framed but the evidence was yet to start or evidence was still at infancy stage, the High Court can show benevolence in exercising its powers

favourably. However, it was further observed, when the prosecution evidence was almost completed or the matter was at the stage of argument, normally the High Court should refrain from exercising its power under Sec.482 Cr.P.C since the trial Court would be in a position to decide the matter on merits to come to conclusion whether the offence under Sec.307 IPC was committed or not.

b) Then with regard to the settlement at the post conviction stage i.e. during the pendency of appeal, it was observed that at the appeal stage, mere compromise between the parties would not be a ground to accept the same. Apex Court in unequivocal terms has held that at that stage the charge is proved under Sec.307 IPC and conviction is also recorded for a heinous crime and there is no question of sparing a convict found guilty of such a crime.

9) Needless to say that the last leg of observation of the Apex Court in Guideline No.7 is relevant and pertinent for our case since this is also a matter where the accused were convicted for the offences under Sec.447, 307, 506 r/w 34 IPC and the matter is pending in Appellate court. In view of the above categorical observation of Hon'ble Apex Court, in the considered view of this Court, the inherent power under Sec.482 Cr.P.C cannot be exercised to give a direction to the Appellate Court as prayed for.

10) In the result, this Criminal Petition is dismissed.

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

U. DURGA PRASAD RAO, J

Date: 22.04.2015

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Note: L.R Copy has to be marked

(b/o)

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