

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.201 OF 2015

ORDER:

The present Revision is filed by the petitioner/A-1 under Sections 397 and 401 Cr.P.C., against the Judgment dated 30.12.2014 passed in CrI.A.No.31 of 2010 on the file of the Family Court-cum-III Additional District and Sessions Judge at Vizianagaram, confirming the conviction and sentence dated 19.03.2010 passed in C.C. No.42 of 2006 on the file of the Judicial First Class Magistrate, Special Mobile Court, Vizianagaram.

The petitioner (A-1) along with another (A-2) are accused in C.C. No.42 of 2006 on the file of Judicial Magistrate of First Class Special Mobile at Vizianagaram, for the offences punishable under Sections 498-A, 326 and 323 IPC. By the judgment dated 15.03.2010 passed in C.C. No.42 of 2006, A-2 was acquitted, whereas A-1 was convicted under Section 498-A and 323 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/- for the offence u/s.498-A IPC and Rs.1,000/- for the offence u/s.323 IPC, in default he shall undergo simple imprisonment for one month for each offence. Challenging the same, the accused preferred CrI.A. No.31 of 2010 before the Court of Family Court-cum-III Additional District and Sessions Judge at Vizianagaram. On 30.12.2014 the said lower Appellate Court confirmed the order of the trial court. Challenging the same, the present Revision is filed.

Pending the said Revision both the parties settled their dispute, which lead to filing of CrI.R.C.M.P. No.902 of 2015 seeking permission of the Court to compound the offence. Along with the present application the informant filed the affidavit, which disclose that at the instance of elders and well-wishers there was a settlement between the parties and in view of the same she has no objection for compounding the offence. The document, which has been filed along with the present application show that both the parties are living separately.

The informant and the accused are present before this Court and they are identified by their respective counsel i.e., Sri Taddi Nageswara Rao, learned counsel appearing for the petitioner/Accused and Sri G.Satish Babu, learned

counsel appearing for the informant. When examined, the informant stated that she has settled the matter with the accused and has no objection for compounding the offence. In proof of her identity, the informant filed a Photostat copy of Ration card.

In **Gian Singh v. State of Punjab and Anr.**, the Apex Court while dealing with the power of the High Court for compounding the offences under Section 320 of the Code held as under :-

“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 of 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 predominatingly 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 with the victim.”

In view of the Judgment referred to above and taking into consideration the fact that the matter has been settled between the parties, this court is of the opinion that no useful purpose would be served in allowing the proceedings to go on. In view of the

compromise arrived at between the parties, the proceedings against the petitioner/Accused can be compounded by permitting the informant to compound the offence.

Accordingly, the Criminal Revision is allowed by setting aside the Judgment dated 30.12.2014 passed in CrI.A.No.31 of 2010 on the file of the Family Court-cum-III Additional District and Sessions Judge at Vizianagaram and the petitioner/A-1 is hereby acquitted for the offences under Sections 498-A and 323 IPC.

As a sequel thereto, Miscellaneous Petitions pending if any in this criminal revision, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 06.04.2015

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