

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

CrI.P.M.P.Nos.16848 and 16850 of 2016

and

CrI.P.No. 14848 OF 2016

COMMON ORDER:

The criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.70 of 2016 of Nagaram Police Station, East Godavari District, registered for the offences punishable under Sections 376(2)(i)(i) and 313 IPC and Section 5(j)(2)(k)(l)(n) read with 6 of POCSO Act, 2012.

The 2nd respondent/*de facto* complainant and her counsel are present. The petitioner/Accused and his counsel are also present.

Heard both sides and perused the record.

Learned counsel for the petitioner submitted that the jurisdictional magistrate recorded the statement of the victim girl on 24.06.2016. It is the specific contention of the de facto complainant that she lodged complaint against the 2nd respondent, who is no other than her husband at the instance of her brother as there were financial disputes with the 2nd respondent. When the victim girl was examined by this Court, she stated that her father is nothing to do with the incident.

It is submitted by both parties that at the intervention of the elders, they have amicably settled their disputes concerning the present case and hence, compromise may be recorded and criminal proceedings in the above case may be quashed.

In *Yogendra Yadav and others v. the State of Jharkhand*¹ the Supreme Court, in the matter of compromise of a non-compoundable offence, held as under:

“The question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC, which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab* {(2012) 10 SCC 303}). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings depending on facts and circumstances of each case. Offences, which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

Having regard to the above submission and considering the fact that the parties have amicably settled the disputes among

¹ 2015 (1) ALD (CrL.) 240 (Supreme Court)

themselves out of Court and no useful purpose will be served even if the parties are driven to the trial as they compromised, and following the decision reported in *Gian Singh v. State of Punjab and another*² the criminal miscellaneous petitions are allowed and compromise is recorded and consequently, against the petitioner/Accused is hereby quashed.

The Crl.P.MP.Nos.16848 and 16850 of 2016 and Crl.P.No.14848 of 2016 are accordingly allowed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 13.10.2016
kvrn



M.S.K.JAI SWAL,J

² (2012) 10 SCC 303