

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.935 OF 2002

ORDER:

This criminal revision is preferred by the petitioners/accused under Sections 397 & 401 of the Criminal Procedure Code against the judgment, dated 08.07.2002, in CrI.A.No.44 of 2000, passed by the I Additional District and Sessions Judge, Kurnool, whereby and whereunder the learned Sessions Judge modified and confirmed the order and conviction passed by the Additional Assistant Sessions Judge, Kurnool, in S.C.No.292 of 1998, dated 21.01.2000.

2. On appeal by the petitioners/accused against the said dismissal order, dated 10.06.2003, in CrI.R.C.No.935 of 2002 before the Apex Court, by order, dated 30.07.2004, in S.L.A.(CrI.).No.964 of 2004, the Apex Court observing that the CrI.R.C.No.935 of 2002 was dismissed by this Court without hearing the arguments of the petitioners herein, remanded the matter for fresh adjudication by setting aside the earlier judgment rendered by this Court on 10.06.2003 in CrI.R.C.No.935 of 2002.

3. The Apex Court observed in its order that this Court dismissed the above CrI.R.C. erroneously while disposing of applications in CrI.M.P.Nos.2220 & 2221 of 2003 filed by the petitioners invoking the provision under Section 482 Cr.P.C. for compromising the issue with the injured and the complainant.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor for the respondent and perused the material available on record.

5. On a perusal of the record, it is evident that all the injured persons appeared before this Court on an earlier occasion and filed applications in CrI.R.C.M.P.Nos.2220 & 2221 of 2013 for compounding the offences. The said applications were also dismissed by this Court on 02.09.2003 on the ground that the petitioners should not have been filed the said applications by invoking the provision under Section 482

Cr.P.C., but they should have filed the said applications by invoking the provisions under sub-Sections (1) & (2) of Section 320 Cr.P.C., as sub-Section (1) of Section 320 Cr.P.C. postulates as to what are the specific offences, which can be compounded without the permission of the Court, and sub-Section (2) of Section 320 Cr.P.C. postulates as to what are the specific offences, which can be compounded with the permission of the Court.

6. The fact remains that the petitioners/accused in CrI.M.P.No.2221 of 2003 and the injured persons, who are shown as proposed respondents 2 to 5 in CrI.M.P.No.2220 of 2003 have filed affidavit expressing their willingness to compound the offences due to the intervention of the elders of the village, wherein it is stated that all the petitioners and the complainant and other prosecution witnesses resolved the disputes and compromised the matter among themselves and decided to live together in the village as brothers and to co-operate each other and further stated that except the conviction under Section 452 IPC, all the offences are compoundable.

7. In support of his contention, learned counsel appearing for the petitioners relied upon a decision of the Apex Court in **GIAN SINGH Vs. STATE OF PUNJAB AND ANOTHER**^[1].

8. In view of the judgment of the Apex Court referred to supra, and in view of the compromise entered into between the parties, this Court is of the view the petitioners' request for compounding the offence in CrI.M.P.Nos.2220 & 2221 of 2003 can be considered and taking into consideration the pendency of the case from the year 1998, without insisting the presence of the respondents, the Criminal Revision Case is allowed and the petitioners/accused are acquitted of the offences for which they were convicted and sentenced. Consequently, the Miscellaneous Petitions, if any, pending in this criminal revision case shall stand closed.

RAJA ELANGO, J

Date: 19th July, 2016

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[\[1\]](#) (2012) 10 Supreme Court Cases 303