

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

Crl.P.M.P. No.13496 of 2016 in Crl.P.No.12132 of 2016

&

CRIMINAL PETITION No.12132 of 2016

COMMON ORDER:

The criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in P.R.C. No.42 of 2015 on the file of the Additional Judicial Magistrate of First Class, Kavali, SPSR Nellore District, which is outcome of F.I.R.No.53 of 2011 of Kavali I Town Police Station, registered against the petitioners/A.1 to A.3 for the offences punishable under Section 307 r/w 149 IPC.

2. The 2nd respondent/*de facto* complainant and his counsel are present. The petitioners/A.1 to A.3 and their counsel are also present.

3. Heard both sides and perused the record.

4. On the report of the 2nd respondent/*de facto* complainant, the Station House Officer, Kavali I Town Police Station, registered a case in Cr.No.53/2011 against the petitioners/accused for the offences alleged and took up investigation. It further appears that on the basis of the said complaint, a specific police case was initiated, which culminated into filing of a charge sheet.

5. It is submitted by both parties that at the stage of committal of the case, at the intervention of the elders, the parties 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.

6. In ***Yogendra Yadav and others v. the State of Jharkhan***^[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.”

7. Having regard to the above submission and considering the fact that the parties have amicably settled the disputes among 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 petition is allowed and compromise is recorded, and consequently, proceedings in P.R.C.No.42 of 2015 on the file of the Court of Additional Judicial Magistrate of First Class, Kavali, relating to Crime No.53/2011 of Kavali I Town Police Station, against the petitioners/accused are hereby quashed.

8. The CrI.P.M.P. No.13496 of 2016 and CrI.P. No.12132 of 2016 are accordingly allowed. Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 12.08.2016
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^[1] 2015 (1) ALD (CrI.) 240 (Supreme Court)

^[2] (2012) 10 SCC 303