

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRL.A.M.P.Nos.2222 AND 2223 OF 2016

IN/AND

CRIMINAL APPEAL No. 761 of 2014.

COMMON ORDER:

This Criminal Appeal under Section 374(2) Cr.P.C. is directed against the judgment dated 4.7.2014 passed in S.C.No.26 of 2013 on the file of learned Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-VI Additional Sessions Judge, Kunrool, whereunder and whereby the appellant/accused was found guilty for the offences punishable under Sections 354 and 506 IPC and accordingly convicted and sentenced to undergo simple imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default of payment of fine, to undergo simple imprisonment for three months for the offence punishable under Section 354 IPC. The accused was further sentenced to undergo simple imprisonment for six months for the offence punishable under Section 506 IPC. Both sentences were directed to run concurrently.

During the course of pendency of the appeal, Second Respondent/De facto complainant filed Crl.A.M.P.SR.Nos.45695 and 40745 of 2016 seeking a direction to record compromise by setting aside the conviction and sentence imposed against the appellant/accused vide Judgment dated 4.7.2014 passed in SC.No.26 of 2013 by the learned Special Judge for Trial of Cases

under SCs & STs (POA) Act-cum-VI Additional Sessions Judge, Kunrool.

Learned Counsel appearing on behalf of the appellant/Accused submits that the Respondent No.2/De facto complainant and the appellant/accused have compromised the matter and therefore Respondent No.2/De facto complainant does not want the appellant/Accused to suffer imprisonment awarded by the trial Court.

Sri K.Srinivas Rao, learned Counsel appearing on behalf of Respondent No.2/De facto complainant does not dispute with the submission of learned Counsel appearing on behalf of the appellant/accused and submits that Respondent No.2/De facto complainant has no objection if the present Criminal Appeal is allowed setting aside the conviction and sentence imposed against the appellant/Accused.

Respondent No.2/De facto complainant—Smt. Abhisekhamma is present before this Court in person. For her identification, she has produced her original Adhar Card bearing No.821640580653 issued by the Government of India. This Court has perused the same and returned to her. She submits that the disputes relating to the present crime have been amicably settled and compromised with the appellant/accused and she has no objection if the appeal is allowed setting aside the conviction and imprisonment imposed against him. A compromise Memo vide CrI.A.M.P.SR.No.40745 of 2016 is filed in regard thereto.

At this juncture, it is pertinent to look into the decision of the Apex Court in the case of Gian Singh Vs. State of Punjab {(2012)10SCC 303} wherein it was observed that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant. While affirming the aforesaid dictum, the Apex Court in Narinder Sing Vs. State of Punjab {(2014)6 SCC 466} observed that when the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure ends of justice and to prevent abuse of the process of Court.

It is not in dispute that the petitioner was acquitted of the offence punishable under Section 3 (1) (x) and (3 (1) (xi) of SCs & STs (Prevention of Atrocities) Act, however convicted for the offences punishable under Sections 354 and 506 of IPC. Alleged incident occurred on 10.10.2012 and FIR was registered on 19.11.2012. As Section 354 of IPC was amended by Act 13 of 2013 w.e.f. 3.2.2013, it is non-compoundable. Section 406 of IPC is also compoundable as per Section 320 of Cr.P.C.

Therefore, keeping in view the decisions of the Apex Court referred hereinabove and the amicable settlement arrived at between the parties, I hereby set aside the conviction and sentence imposed against the appellant/accused vide Judgment dated 4.7.2014 in S.C.No.26 of 2013 on the file of learned Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-VI Additional Sessions Judge, Kunrool. Consequently the appellant/accused is acquitted of the offences punishable under Sections 354 and 506 IPC.

The Criminal Appeal as well as CrI.A.M.P.SR.Nos.45695 AND 40745 OF 2016 are accordingly allowed.

Miscellaneous petitions pending consideration if any in the Criminal Appeal shall stand closed in consequence.

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***JUSTICE SURESH KUMAR KAIT***

DATED 08<sup>th</sup> December, 2016.  
Msnr/gbs

