

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15289 OF 2016

ORDER:

This criminal petition, under Section 482 Cr.P.C., is filed to quash the proceedings in C.C. No.552 of 2013 pending before the V Additional Judicial Magistrate of First Class, Nellore, on the sole ground that the *de facto* complainant and others entered into compromise before the Lok Adalath Bench, Nellore, on 29.02.2016, thereby the Lok Adalath Bench passed an award No.122 of 2016, whereby the parties to the award agreed to compromise C.C. No.553 of 2013 pending before the V Additional Judicial Magistrate of First Class, Nellore, but instead of effecting the compromise, the *de facto* complainant proceeding with the trial of the matter and it is against purport of the terms and conditions of the award and it is nothing but abuse of process of the court and prayed to quash the same.

Learned counsel for the petitioner, during hearing, would contend that there is a typographical mistake in the award and on account of such mistake, the petitioners shall not be put to hardship and it is nothing but abuse of process of court, placed reliance on the Judgment of the Apex Court in **RUCHI AGARWAL v. AMIT KUMAR AGRAWAL AND OTHERS**¹.

Whereas the Public Prosecutor for the State of A.P. contended that the matter agreed to be compromised the C.C. No.553 of 2013 pending on the file of V Additional Judicial Magistrate of First Class, Nellore, but not C.C. No.552 of 2013,

¹ (2005)3 SCC 299

and therefore, the award has no bearing on the issue and prayed for dismissal of the petition.

As seen from the material on record, the petitioner and the *de facto* complainant settled their matrimonial disputes before Lok Adalath and one of the terms and conditions is to compromise C.C. No.553 of 2013 on the file of V Additional Judicial Magistrate of First Class, Nellore. The matter pending before the court is only C.C.No.552 of 2013, but not C.C. No. 553 of 2013. The condition No.5 incorporated in the award has no direct bearing on C.C. No.552 of 2013, since the parties did not agree to enter into compromise in C.C. No.552 of 2013 pending on the file of V Additional Judicial Magistrate of First Class, Nellore. However, the counsel for the petitioner would submit that it is only typographical mistake, the award is binding on the parties and unless such mistake is rectified, the petitioner will be put to substantial loss.

In **RUCHI AGARWAL**'s case referred to supra, an identical question came up before the Apex Court. No doubt, if the parties agreed to enter into compromise and obtained divorce, the second respondent continuing the criminal proceeding is nothing but abuse of process of the court, but here the difficulty is alleged mistake i.e. mention of C.C. No.553 of 2013 in the award. In such circumstances, it is highly difficult for this court to accept the contention of the petitioners that it is only a typographical mistake, and to quash the proceeding in C.C. No.552 of 2013 pending before the V Additional Judicial

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Magistrate of First Class, Nellore. Consequently the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed. However, liberty is given to the petitioners to renew their request by a separate application, after getting typographical mistake rectified before the Lok Adalath, if advised.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 02.11.2016
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