

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

**Crl.P.MP.No.17765 of 2016
in/and
Crl.P.No.15679 of 2016**

ORDER:

Crl.P.No.15679 of 2016 is filed under Section 482 Cr.P.C., to quash the proceedings in PRC.No.18 of 2016 on the file of XIII Metropolitan Magistrate at Cyberabad, L.B. Nagar, in Crime No.144 of 2015 (SHO, Nacharam Police Station) for the alleged offence punishable under Section 306 IPC.

2. Crl.P.MP.No.17765 of 2016 in Crl.P.No.15679 of 2016 is filed under Section 320 r/w. Section 482 of Cr.P.C., seeking permission of this Court to compound the offence punishable under Section 306 IPC.

3. In fact, the offence punishable under Section 306 IPC is not compoundable either with or without permission of the Court. But, when the allegations made in the complaint would not constitute an offence under Section 306 IPC, the Court can grant permission to compound the offence. In similar circumstances, in SANJU ALIAS SANJAY SINGH SENGAR v. STATE OF M.P.¹, the Hon'ble Supreme Court in para-14 of its judgment held as follows:

“A plain reading of the suicide note would clearly show that the deceased was in great stress and depressed. One plausible reason

¹ (2002) 5 SCC 371

could be that the deceased was without any work or avocation and at the same time indulged in drinking as revealed from the statement of the wife Smt. Neelam Sengar. He was a frustrated man. Reading of the suicide note will clearly suggest that such a note is not a handy work of a man with sound mind and sense. Smt. Neelam Sengar, wife of the deceased, made a statement under [Section 161](#) Cr.P.C. before the Investigation Officer. She stated that the deceased always indulged in drinking wine and was not doing any work. She also stated that on 26th July, 1998 her husband came to them in an inebriated condition and was abusing her and other members of the family. The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25th July, 1998 and if the deceased came back to the house again on 26th July, 1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25th July, 1998. Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of 'abetment' are totally absent in the instant case for an offence under [Section 306](#) I.P.C. It is in the statement of the wife that the deceased always remained in a drunken condition. It is a common knowledge that excessive drinking leads one to debauchery. It clearly appeared, therefore, that the deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25th July, 1998 where the appellant is stated to have used abusive language. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to irresistible conclusion that it is the deceased and he alone, and none else, is responsible for his death.”

4. In the present facts of the case, the allegations made in the complaint and in the charge sheet would, at best, disclose that the petitioners/A.1 and A.2 demanded for payment of debt due to them and also threatened to kill him in case the deceased did not discharge the debt, as deceased No.1 sustained loss in rice business, which he carried in the name and style of “Sai Venkateswara Enterprises” situated at Santoshimatha Colony, North Hasthinapuram, L.B. Nagar.

Even as per the suicide note, (1) Kondura Venkatesh, (2) K. Krishnaiah, (3) Satish Kumar, and (4) Guravaiah came to him and pressurized him, threatened him that if he did not discharge the debt, they will kill his grand-son and family members. At best, this allegation would attract the offence punishable under Section 506 IPC, but not an offence under Section 306 IPC.

5. Section 107 of IPC defines 'abetment of a thing' — A person abets the doing of a thing, who — (First) — Instigates any person to do that thing; or (Secondly) —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or (Thirdly) — Intentionally aids, by any act or illegal omission, the doing of that thing, such person is said to have abetted.

6. In the instant case, the allegation is that the petitioners have threatened the deceased to kill him in case the debt is not discharged, that would not directly amounts abetment as envisaged under Section 107 IPC and the commission of suicide was only on account of heavy indebtedness of the deceased due to loss sustained in the business and due to threat to kill him, but the direct consequence is not the threat to kill him. Therefore, even if the allegations made in the charge sheet and the suicide note are assumed to be true, it

would not constitute an offence under Section 306 IPC, on its face value.

7. The defacto-complainant and the petitioners-A.1 and A.2 appeared in person and furnished photostat copies of Adhar Card for their identification and voluntarily stated that they entered into compromise to settle the dispute.

8. Therefore, taking into consideration of the facts and circumstances of the case and applying the principle laid down in SANJU ALIAS SANJAY SINGH SENGAR's case (supra 1), both the defacto-complainant and the petitioners-A.1 and A.2 are permitted to compound the offence punishable under Section 306 IPC.

9. That apart, the Apex Court time and again laid down certain guidelines in such matters stating that the Court can accord permission to compound the offence and in GIAN SINGH V. STATE OF PUNJAB AND ANR.², the Apex Court laid down certain guidelines where the offences, which are not compoundable with or without permission of the Court, can be compounded and held as follows:

“..... the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii)

² (2012) 10 SCC 303

to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

10. The principle laid down in the above judgment is that depending upon the facts and circumstances of each case,

the High Court can exercise its inherent power under Section 482 Cr.P.C., however before exercising such power, High Court must have due regard to nature and gravity of crime and its societal impact. It is further held that heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., could not be fittingly quashed even though victim or victim's family and offender have settled dispute. Such offences were not private in nature and have serious impact on society. Similarly any compromise between victim and offender in relation to offences under special statutes like Prevention of Corruption Act or offences committed by public servants while working in that capacity etc., could not provide for any basis for quashing criminal proceedings involving such offences.

11. But, in the present case, the allegation made in the charge sheet and other material documents would go to show that the deceased committed suicide on account of threat to kill them, in case of failure to discharge the debt. That would not constitute an offence under Section 306 IPC and according permission to compound the offence would not have any adverse impact on the society.

12. Accordingly, permission is accorded and Crl.P.MP.No.17765 of 2016 is allowed.

13. In view of the order passed in Crl.P.M.P.No.17765 of 2016, Crl.P.No.15679 of 2016 is allowed quashing the proceedings in PRC.No.18 of 2016 on the file of XIII Metropolitan Magistrate at Cyberabad, L.B. Nagar, in Crime No.144 of 2015 (SHO, Nacharam Police Station).

14. The miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

05.12.2016.
Msr



HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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