

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.6376 OF 2016

ORDER:

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This Criminal Petition is filed under Section 482 Cr.P.C by the petitioners/A-1 to A-4 seeking to call for the records relating to return endorsement, dated 6.11.2015, in Crl.M.P.(SR)No.1173 of 2015 in Crl.A.No.46 of 2014 on the file of the III Additional District and Sessions Judge, Kakinada and consequently, permit the parties herein to compound the offence against the petitioners/A-1 to A-4 in the said appeal which was preferred against the judgment, dated 10.3.2014, in C.C.No.20 of 2011 on the file of the Special Judicial Magistrate of First Class (Mobile Court), Kakinada.

2. Heard and perused the material available on record.

3. The petitioners were convicted by the trial Court for an offence punishable under Section 326 read with 34 I.P.C. and sentenced to undergo simple imprisonment for two years each and to pay a fine of Rs.200/- each, in default of payment of fine, to suffer simple imprisonment for one month each. Against the said conviction and sentence, the petitioners preferred the aforementioned appeal. When the *de facto* complainants in the said case informed the Court that they want to compound the offence and filed an application informing the same along with an affidavit and compromise memo, *vide* impugned endorsement, the appellate Court refused to entertain the said application invoking the provision under Section 320(5) Cr.P.C. and returned the same on the ground that

the said offence is non-compoundable in nature.
Challenging the same, the present Criminal Petition is filed.

4. Considering the facts and circumstances of the case, this Court is of the view that the appellate Court is right in returning the said application since there is no provision to compound the offence under Section 326 I.P.C. invoking the provision under Section 320(5) Cr.P.C. unless and otherwise there is a direction by the appellate Court.

5. Both the petitioners as well as the *de facto* complainants appeared before this Court and filed an affidavit informing their intention to compound the offence. In that view of the matter, the appellate Court is directed to allow the application filed by the petitioners and dispose of the same in accordance with law.

6. Accordingly, the Criminal Petition is disposed of. Miscellaneous Petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE RAJA ELANGO

27.4.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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