

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

CRLP.MP.No.12806 of 2016

IN/AND

CRIMINAL PETITION No.11562 of 2016

ORDER:

The criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in PRC.No.63 of 2013 on the file of the Court of Additional Judicial First Class Magistrate at Vizianagaram, registered for the offences punishable under Sections 498-A and 307 IPC and Sections 3 and 4 of Dowry Prohibition Act.

The second respondent/*de facto* complainant and her counsel are present. The petitioners/A-1 to A-3 and their counsel are also present.

Heard both sides and perused the record.

On the report of the second respondent/*de facto* complainant, the Station House Officer, Women Police Station, Vizianagaram registered a case in Crime No.47 of 2013 against the petitioners/A-1 to A-3 for the offences alleged, and after completion of investigation, filed the charge sheet. Though the police did not mention Section 307 IPC in the charge sheet, the Court below took cognizance of it and added said section of law.

It is submitted by both parties that at the intervention of the elders, the parties have amicably settled their disputes concerning to the present case and hence compromise may be recorded and criminal proceedings in the above case may be quashed.

I n *Yogendra Yadav and others v. the State of*

Jharkhand^[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.”

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 PRC.No.63 of 2013 on the file of the Court of Additional Judicial First Class Magistrate at Vizianagaram against the petitioners/A-1 to A-3 are hereby quashed.

The CrI.P.MP.No.12806/2016 and CrI.P.No.11562/2016 are accordingly allowed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL, J

Date: 08.08.2016
TJMR

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

^[2] (2012) 10 SCC 303