

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

Crl.RC.MP.Nos.234 and 235 of 2016

And Crl.RC No.1467 of 2011

Order:

This Criminal Revision Case is directed against the judgment in Crl.A.No.157 /2010, dated 11.7.2011 on the file of the learned Principal Sessions Judge, Karimnagar confirming the order passed by the learned Judicial Magistrate of First Class, Husnabad dated 3.12.2010 in C.C.No.227 of 2004 by and under which, the conviction and sentence as imposed by the trial Court was confirmed.

By judgment dated 3.12.2010 in C.C.No.227 of 2004 the learned Magistrate convicted the petitioners/accused for the offence under Section 420 IPC and sentenced to suffer rigorous imprisonment for a period of two years and to pay fine of Rs.2500/-. On appeal, the appellate court, disposed of the appeal vide judgment dated 11.7.2011 confirming the judgment passed by the trial court.

T h e *de facto* complainant is present; the petitioners/accused along with their counsel are also present. Both parties had submitted that they have entered into a compromise and settled the matter out of court and that petitioners herein paid an amount of Rs.3,00,000/- towards full and final settlement of the dispute to the defacto

complainant on 28.6.2015 hence compromise may be recorded and criminal proceedings in the above case may be quashed.

In ***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 as they compromised, and following the decision reported in ***Gian Singh v. State of Punjab and another***^[2] the criminal miscellaneous petitions are allowed and compromise is recorded. Consequently, the judgment of the appellate Court dated 11.7.2011 in CrI.A.No.157 of 2010 as well as the judgment of the trial Court dated 3.12.2010 in C.C.No.227 of 2004 are set aside and the

petitioners/accused are acquitted of the offence for which they were found guilty and convicted. The bail bonds of the petitioners/accused shall stand cancelled. The fine amount, if any paid, shall be refunded to the petitioners/accused.

The Crl.RC.MP.Nos.234 and 235 of 2016 and Crl.RC.No.1467 of 2011 are accordingly allowed. Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 11.2.2016

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Dated : 11.2.2016

[\[1\]](#) 2015 (1) ALD (Crl.) 240 (Supreme Court)

[\[2\]](#) (2012) 10 SCC 303