

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Crl.P.M.P.Nos.6374 & 6375 of 2017

AND

CRIMINAL PETITION No.6238 of 2017

COMMON ORDER:

1 This Criminal Petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioners/Accused Nos.1 to 3 in Crime No.120 of 2014 on the file of the Station House Officer, Golkonda Police Station, registered for the offences punishable under Sections 342 and 307 r/w 34 of IPC.

2 Crl.P.M.P.No.6374 of 2017 is filed by the first respondent to permit him to compound the offences. Crl.P.M.P.No.6375 of 2017 is filed by the first respondent to record the compromise.

3 The petitioners and the first respondent are present. Sri P.Kesava Rao, learned advocate representing Sri D. Purnachandra Reddy identified the petitioners. Sri A. Ramakrishna, learned counsel identified the first respondent.

4 The first respondent in the open court submitted that she voluntarily entered into compromise with the petitioners at the advice of elders. He further submitted that nobody compelled or forced him to enter into compromise with the petitioners. The offence under Section 342 of IPC is compoundable whereas the offence under section 307 of IPC is non-compoundable.

5 At this juncture, the learned counsel for the petitioners has placed reliance on the ratio laid down by the Hon'ble Apex Court in **Yogendra Yadav & Others vs. The State of Jharkhand**¹ wherein the Hon'ble Apex Court held that the Court can compromise the

¹ AIR 2014 SC 3055

case even though the offence alleged against the accused is under Section 307 of IPC. The learned counsel for the petitioners further placed reliance on the ratio laid down in **State of Madhya Pradesh vs. Deepak**² wherein the Hon'ble Apex Court held at para No.29.6 as follows:

29.6. Offences Under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge Under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

As per the principle enunciated in the case cited supra, the High Court can quash the proceedings for the offence punishable under Section 307 of IPC basing on the facts and circumstances of the case. In the case on hand, even as per the allegations made in the complaint, the victim sustained injuries on hands and legs only and no injury is inflicted on the vital parts of the victim.

6 In **Shiji alias Pappu v Radhika**³, the Supreme Court held as under:

“It is manifest that simply because an offence is not compoundable under Section 320 CrPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 CrPC. That power can in our

² AIR 2014 SC 3747

³ (2011) 10 SCC 705

opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 CrPC on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 CrPC are not for that purpose controlled by Section 320 CrPC.”

7 In **Gian Singh v State of Punjab**⁴, the apex Court observed as under:

“..... 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.”

8 Taking into consideration the factum of settlement arrived at between the parties, this court is of the view that even if the proceedings are allowed to continue, the first respondent may not support the case of the prosecution. No purpose will be served in keeping the matter pending in view of the settlement arrived at between the parties.

⁴ (2012) 10 SCC 303

9 Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that it is a fit case to quash the proceedings.

10 In the result, CrI.P.M.P.No.6374 of 2017 and CrI.P.M.P.No.6375 of 2017 are allowed, quashing the proceedings against the petitioners/Accused Nos.1 to 3 in Crime No.120 of 2014 on the file of the Station House Officer, Golkonda Police Station. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J.

25th July, 2017.

Kvsn

