

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.1094 of 2017

ORDER:

1) The petitioners, who are accused Nos.2 to 6 filed this Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of all further proceedings in P.R.C.No.38 of 2009 on the file of the IX Metropolitan Magistrate, Kukatpally, Cyberabad, on the ground of compromise arrived at between the parties.

2) The case of the prosecution is that on 23.12.2008 at about 7.45 p.m. about 35 to 40 members came in four quails and two tata sumo vehicles to Sevlal Nagar Tanda armed with knives, rods and are alleged to have created terror to the residents of the said thanda. In the meanwhile, accused Nos.2 and 4 got down from the vehicles along with swords and assaulted the informant and his brother, in order to kill them. The informant escaped but his brother sustained bleeding injuries. Basing on these allegations, a charge sheet came to be filed for the offences punishable under Sections 147, 148 and 307 read with 149 IPC.

3) Along with the present Criminal Petition, the petitioners also filed CrI.P.M.P.No.1038 of 2017 seeking permission of the Court to compound the offence.

4) On 08.02.2017 the petitioners and second respondent are present before the Court and they were identified by their

respective counsel. When examined, the second respondent stated that he has settled the matter with the accused, who are all residents of the same village. He further stated that petitioners 1 and 2 are his relatives. According to him, the incident happened in emotion. He further states that in view of the compromise, he is not interested in prosecuting the matter and that he has no objection for quashing the proceedings against the petitioners.

5) It is to be noted that eleven persons were arrayed as accused in the charge sheet but only six accused ie. accused Nos.2 to 6 are before this Court.

6) In *Yogendra Yadav and others v. State of Jharkhand and another*<sup>1</sup> the Apex Court held as under:

“The 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.

7) In *Gian Singh v. State of Punjab and another*<sup>2</sup>, the Apex Court held that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion,

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<sup>1</sup> 2014 Law Suit (SC) 563

<sup>2</sup> (2012) 10 Supreme Court Cases 303

continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor.

8) From the judgments referred to above, the proceedings can be quashed if the Court is of the opinion that continuation of proceedings would be an abuse of process of law and it would be an exercise of futility. Though this Court has got power to quash the proceedings, even if the case was registered under Section 307 IPC, but at the same time the Apex Court has also held that it all depends upon the facts and circumstances of each case.

9) In the instant case, a reading of the charge sheet show that a double murder took place in the said village, in which accused No.4, his brother and four others were involved. All of them were arrested and sent to jail. Later they were released on bail. When they were not allowed to enter into the said village, they obtained police protection. It is to be noted that the informant and his brother are witnesses in the said double murder case. It is the case of the prosecution that the accused have attacked the informant and his brother so as to wipe out the evidence, in the double murder case. The averments in the charge sheet also show that accused Nos.10 and 11 are still absconding. Having regard to the nature of offence and also the purpose and manner in which it has been committed, this Court is of the view the proceedings cannot be quashed even if the

informant compromises the matter with the accused, more so when there is other oral and documentary evidence in support of the prosecution case.

10) Accordingly, the Criminal Petition is dismissed. As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

14.02.2017  
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