

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Crl.P.M.P.Nos.5169 & 5170 of 2017

AND

CRIMINAL PETITION No.14340 of 2015

COMMON ORDER:

1 This Criminal Petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioner accused No.4 in C.C.No.566 of 2015 on the file of the Court of the IV Additional Judicial Magistrate of I Class, Kakinada.

2 Crl.P.M.P.No.5169 of 2017 is filed to permit the second respondent to compound the offences and Crl.P.M.P.No.5170 of 2017 is filed to permit the petitioner to compromise the matter with the second respondent.

3 Petitioner and the second respondent are present. Sri K. Gopal advocate representing Sri P.Durga Prasad learned counsel identified the petitioner. Sri M. Sri Ramarao identified the second respondent.

4 The second respondent submitted in the open court that he voluntarily entered into compromise with the petitioner 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 420 of IPC is compoundable, whereas the offence under Section 423 is compoundable with the permission of the Court, whereas the offence under sections 465 and 467 of IPC are non-compoundable.

5 In **Shiji alias Pappu v Radhika**¹, 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 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.”

6 In **Gian Singh v State of Punjab**², 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.”

7 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 second 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.

¹ (2011) 10 SCC 705

² (2012) 10 SCC 303

8 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.

9 In the result, CrI.P.M.P.No.5169 of 2017 and CrI.P.M.P.No.5170 of 2017 are allowed, quashing the proceedings against the petitioner / accused No.4 in C.C.No.566 of 2015 on the file of the Court of the IV Additional Judicial Magistrate of I Class, Kakinada Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 11th July, 2017.

Kvsn

