

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.MP.No.530 of 2017

In/AND

Crl.P.No.574 of 2017

ORDER:

Crl.P.MP.SR.No.53787 of 2016 is filed under Section 320 (4) of Cr.P.C., seeking to compound the offence punishable under Section 307 read with 34 of IPC.

2. As the matter was settled due to intervention of elders, both the parties are present-in-person and they are identified by their respective counsel and the parties also produced photo copies of Aadhaar Cards in proof of their identity.

3. The offence allegedly committed by the petitioners is punishable under Section 307 read with 34 IPC, but as seen from the material available on record, the *de facto* complainant received simple injuries, but not on vital parts. Moreover, the matter is settled due to compromise and it is voluntary. Though the offence is not compoundable either with or without permission, but when the Court come to conclusion that the parties have entered into compromise and that there is no impact on the society, the Court can permit them without permission to compound the offence and the Apex Court in **DIMPEY GUJRAL AND OTHERS vs. UNION TERRITORY**¹ by following the principle laid down in **GIAN SINGH vs. STATE OF PUNJAB AND ANOTHER**² held that the Court can permit the parties to compound the offence, if there is no impact on the society. Similarly in the decision of Apex Court in

¹ (2013) 11 Supreme Court Cases 497

² (2012) 10 SCC 303

NARINDER SINGH AND OTHERS³ and **YEGESH YADAV vs. STATE OF JHARKHAND⁴**, the Court consistently held again basing on the principle in **GIAN SINGH V. STATE OF PUNJAB AND ANOTHER²** that if the material on record shows that there is no intention on the part of the petitioner and such permission to compound would have no impact on the society, the Court can permit them to compound the offence. In **GIAN SINGH vs. STATE OF PUNJAB AND ANOTHER²**, the following guidelines are laid down by the Apex Court:-

“a. Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.

b. Cases pertaining to property disputes between close relations, which are predominantly civil in nature and they have a genuine or belaboured dimension of criminal liability. Notwithstanding a touch of criminal liability, the settlement would bring lasting peace and harmony to larger number of people.

c. Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim.

d. Minor offences as under Section 279, IPC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet another offence which remains non- compoundable is Section 506 (II), IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148, IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act No. 17 of 1999 (Section 3) has made Sections 506(II) IPC, 147 IPC and

³ (2014) 6 Supreme Court Cases 466

⁴ 2015 1 ALD CrI. 240 SC

148, IPC compoundable offences by amending the schedule under Section 320, Cr.P.C.

e. The offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by Public Servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter-VII (relating to army, navy and air force) must remain non-compoundable.

f. That as a broad guideline the offences against human body other than murder and culpable homicide may be permitted to be compounded when the court is in the position to record a finding that the settlement between the parties is voluntary and fair. While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution."

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

4. Therefore, having considered the facts and circumstances of the case including the receipt of injury on the body of respondent No.2, I deem it appropriate to compound the offence and apart from that even if the trial is held, there is no chances of supporting the prosecution case by witnesses are bleak.

5. Accordingly, CrI.P.MP.SR.No.53787 of 2016 is ordered and the offence is compounded.

6. In view of the permission granted by this Court and the compromise entered by both parties, CrI.P.SR.No.53783 of 2016 is allowed quashing the proceedings in S.C.No.142/2016 pending on the file of Assistant Sessions Judge, Bodhan.

7. Miscellaneous Petitions, if any, pending in this Criminal Petition SR, shall stand closed.

Date:03-01-2017
mr**b**

M. SATYANARAYANA MURTHY, J



