

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Crl.A.M.P.Nos.1627 & 1628 of 2017

AND

CRIMINAL APPEAL No.67 of 2017

COMMON ORDER:

1 This Criminal Appeal is filed under Section 374 (2) of Cr.PC challenging the conviction and sentence imposed on the appellants by the learned Special Sessions Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act-cum-VII Additional District & Sessions Judge at L.B. Nagar, Ranga Reddy District in S.C.No.46 of 2013.

2 Appellants herein faced trial in S.C.No.46 of 2013 before the trial Court. The trial Court, after full fledged trial, found the appellants guilty of the offence punishable under Section 3 (1) (x) of the S.C. & S.T (PoA) Act and accordingly convicted and sentenced them to suffer rigorous imprisonment for a period of two years each, vide judgment dated 11.01.2017. Feeling aggrieved by the said conviction and sentence imposed on them, the appellants preferred the present Criminal Appeal.

3 At the stage of appeal, the appellants and the *de-facto* complainant entered into compromise. The *de-facto* complainant filed Crl.M.P.Nos.1627 of 2017 and 1628 of 2017 seeking to permit him to compound the offence and to record the compromise.

4 Appellants and the de facto complainant are present. Sri K. Surender learned counsel identified the appellants. Sri Ramulu advocate representing Sri D.V. Chalapathi Rao learned counsel for the *de-facto* complainant, identified the *de-facto* complainant.

5 The second respondent submitted in the open court that he 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 3 (i) (x) of S.C. & S.T. (PoA) Act is non-compoundable.

6 The learned counsel for the appellants submitted that the Court can compound the offences even at the stage of appeal. In this regard, he has drawn the attention of this Court to the ratio laid down in ***Bharti vs. State of Haryana***¹, ***Manoj vs. State of Uttaranchal***², and ***Pratap Singh vs. State of Uttarakhand***³. As per the principle enunciated in the cases cited supra, the Court can compound the offence and record a compromise even at the stage of appeal for the offence punishable under the provisions of the Scheduled Castes and Scheduled Tribes (PoA) Act.

7 The learned counsel for the petitioner placed reliance on the ratio laid down by this Court in ***Moghal Shaik Shavali v. P. Rama Krishna Rao***⁴ and ***Pudi Anjelamma v. Ramesh Chandra Panda***⁵ and submitted that the offence under Section 3 (i) (x) of S.C. & S.T. (PoA) Act can be compounded.

8 In ***Shiji alias Pappu v Radhika***⁶, 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

¹ 2014 LawSuit (SC) 130

² 2013 LawSuit (Utt) 482

³ 2013 LawSuit (Utt) 1220

⁴ 2015 (1) ALD (CrL.) 703

⁵ 2016 (1) ALD (CrL.) 602

⁶ (2011) 10 SCC 705

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.”

9 In **Gian Singh v State of Punjab**⁷, 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.”

10 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.

11 In the result, Crl.M.P.Nos.1627 of 2017 and 1628 of 2017 are ordered. Consequently, the criminal petition is allowed, setting aside the conviction and sentence imposed on the appellants by the learned Special Sessions Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

⁷ (2012) 10 SCC 303

Act-cum-VII Additional District & Sessions Judge at L.B. Nagar, Ranga Reddy District in S.C.No.46 of 2013 and they are acquitted of the said offence. Bail bonds of the appellants, if any, shall stand cancelled. Miscellaneous petitions, if any pending in the criminal appeal, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 4th August, 2017.

Kvsn

