

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1329 of 2014

And

CRL.RC MP No.3149 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ("the Code", for short) is filed by the petitioner/accused assailing the judgment, dated 24.06.2014, of the learned Metropolitan Sessions Judge-cum-I Additional District and Sessions Judge, Visakhapatnam, passed in CrI.A.No.119 of 2011.

1.1 By the aforesaid judgment, the learned Metropolitan Sessions Judge, while dismissing the above said appeal, confirmed the judgment, dated 30.08.2011, of the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam, passed in C.C.No.16 of 2008.

2. When the matter is taken up for hearing, the petitioner/accused and the *de facto* complainant, who are present in the Court, stated that they have amicably settled the matter outside the Court and that CrI.R.C.M.P.No.3149 of 2017 is filed under Section 320 of the Code requesting to compound the offences & record compromise and allow the Criminal Revision Case by setting aside the judgments of the Courts below and acquit the petitioner/accused. They produced copies of their respective identity proofs. They are also identified by their respective counsel.

3. The complainant filed her affidavit in support of the petition in CrI.RC.MP.No.3149 of 2017 stating various reasons, which lead to the compromise, and also the terms of the compromise. After such examination of the parties, this Court is satisfied that the parties arrived at the compromise voluntarily and with free will and without

any pressure or force from any quarter. From the nature of the offences which are the subject matter of the case, it appears that the criminality is *inter se* the parties and is not against the society.

4. In ***Yogendra Yadav and others v. the State of Jharkhand***¹, the Supreme Court dealing with the issue of according permission to compound a non-compoundable offence held as under:

“Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the Indian Penal Code, which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab*: (2012) 10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. 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. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

¹ 2015(1) ALD (CrI.) 240 (Supreme Court)

5. Considering the submissions, the legal position obtaining and the fact that the parties have amicably settled the disputes between them out of Court, this Court finds that no useful purpose would be served even if the parties are driven to trial as they compromised the matter and that in this case the prosecution, therefore, becomes a lame excuse. Therefore, pursuing a lame prosecution would be a waste of time and energy of the parties and it will also unsettle the compromise and obstructs restoration of peace. Viewed thus, this Court finds that this is a fit case to permit the parties to compound the offences and record the compromise. On the above analysis, the CrI.R.C.M.P.No.3149 of 2017 is allowed and the compromise is recorded.

6. In the result, the Criminal Revision Case is allowed and the judgment, dated 24.06.2014, of the learned Metropolitan Sessions Judge-cum-I Additional District and Sessions Judge, Visakhapatnam, passed in CrI.A.No.119 of 2011, confirming the judgment, dated 30.08.2011, of the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam, passed in C.C.No.16 of 2008 is set aside and the petitioner/accused is acquitted of the offences with which he is charged. His bail bonds shall stand cancelled. The affidavit with the terms of compromise shall form part of this order.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M.SEETHARAMA MURTI

July 13, 2017
Lmv