

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.P.MP NO.720 OF 2017

IN/AND

CRIMINAL PETITION No.766 OF 2017

COMMON ORDER:

Cr.P.M.P.No.720 of 2017 is filed under Section 320(1) r/w Section 482 of Cr.P.C. to permit the petitioner and respondents 1 and 2 to compromise and to quash F.I.R. No.574 of 2016 of Police Station, Pahadi Shareef, Ranga Reddy District, registered against the petitioners/A-1 and A-2.

2. The criminal petition is filed under Section 482 Cr.P.C. to quash the F.I.R. No.574 of 2016 of Police Station, Pahadi Shareef, Ranga Reddy District, registered against the petitioners/A-1 and A-2.

3. The offence alleged against the petitioners/A-1 and A-2 is punishable under Section 498-A of IPC.

4. The affidavits of the petitioners/A-1 and A-2 and the de facto complainant are filed along with joint memo stating that they sought permission to enter into compromise since it is a matrimonial dispute and according to the parties, the de facto complainant has taken customary divorce. Permission is accorded. They have also filed separate affidavits and joint memo wherein the de facto complainant requested to allow the petition by quashing the F.I.R. No.575 of 2016 of Police Station, Pahadi Shareef, Ranga Reddy District on the ground that through the intervention of elders, they entered into compromise to live peacefully.

5. Both, the petitioners/A-1 and A-2 and the de facto complainant/respondent No.2 viz., Smt. Zohra Yaseen Motiwala as well as Sri Mohd. Gulam Sarwar, learned counsel for the petitioners

and Sri Mohd. Mujahid Qureshi, learned counsel for the respondents 1 and 2 are present and the parties are identified by their respective counsel. The parties have produced photostat copies of their "Aadhaar Cards" in proof of their identity.

6. The memo filed by the parties contains signatures of both parties and their respective counsel and they affirm the contents of the joint memo and request to record the compromise.

7. In *Yogendra Yadav and others v. the State of Jharkhand*¹ the Supreme Court, in the matter of compromise of a non-compoundable offence, held asunder:

"The question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC, 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 depending 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

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

the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility 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.”

8. Having regard to the above submission and considering the fact that the parties have amicably settled the disputes among themselves out of Court and no useful purpose will be served even if the parties are driven to the trial as they compromised, and following the decision reported in *Gian Singh v. State of Punjab and another*² the criminal miscellaneous petition is allowed and compromise is recorded, and consequently, the F.I.R. No.574 of 2016 of Police Station, Pahadi Shareef, Ranga Reddy District, registered against the petitioners/A-1 and A-2 is hereby quashed.

The Crl.P.M.P.No.720 of 2017 and Crl.P.No.766 of 2017 are accordingly allowed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKARNARAYANA, J

Date:01.02.2017
ccm

² (2012) 10 SCC 303

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