

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P.M.P. No.13298 of 2017 IN/ AND Crl.P. No.12004 of 2017

COMMON ORDER:

Crl.P.M.P. No.13298 of 2017: This petition is filed under Section 320 of Criminal Procedure Code (for short "Cr.P.C.") to record compromise and quash the proceedings in P.R.C. No.13 of 2017 on the file of VI Additional Metropolitan Magistrate at Bheemunipatnam, Visakhapatnam District, for the offence punishable under Sections 147, 148, 323, 324, 307 and 506 r/w 149 IPC.

The parties are present in person. They are identified by their respective counsel and produced photostat copies of Aadhar cards in proof of their identity.

The only objection raised by this Court is about exercising of power of this Court to quash the proceedings when serious offences are committed by the petitioners under Section 307 IPC along with other offences.

But as per the guidelines of the Apex Court in *Narinder Singh and others vs State of Punjab and another*¹, after reviewing the entire law on the aspect regarding compounding of offences held that the allegations made in the charge sheet do not constitute such an offence. The parties have compromised. The offence is not against the society and against an individual. The Court can permit the parties for compromise.

Parbatbhai Aahir @ Parbatbhai Bhimsinhbhani Karmur and

¹ 2014 (6) SCC 466

*others vs State of Gujarat and another*², the Full Bench of the Supreme Court laid down certain guidelines to accord permission to compound the offences under guidelines.

As per guideline 16.3 to form an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

According to guideline 16.4, while the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any Court.

According to guideline 16.5, the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

In view of the guidelines, the Court has to take into consideration and has to decide whether the offence is against the individual or against the society. But in the present case, the offences committed are punishable under Sections 147, 148, 323, 324, 307, 506 r/w 149 IPC. All the offences are against the individual but not against the society.

In “Gian Singh v. State of Punjab and Anr.”³ the Apex Court held that depending upon the facts and circumstances of each

² 2017 (9) SCC 641

³ (2012) 10 SCC 303

case, the High Court can exercise its inherent power under Section 482 Cr.P.C., however before exercising such power, High Court must have due regard to nature and gravity of crime and its social impact. It is further held that heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., could not be fittingly quashed even though victim or victim's family and offender have settled dispute. Such offences were not private in nature and have serious impact on society. Similarly any compromise between victim and offender in relation to offences under special statutes like Prevention of Corruption Act or offences committed by public servants while working in that capacity etc; could not provide for any basis for quashing criminal proceedings involving such offences.

In view of the voluntary settlement of the dispute between the parties and the said settlement has no societal impact; I find that it is a fit case to permit the petitioners to compound the offences. Apart from that the allegations made in the charge sheet would not constitute prima facie offence punishable under Section 307 IPC, since the allegation made against these petitioners is that to wreck vengeance against LW.1—Saraga Suresh Reddy, on 16.08.2016 accused Nos.1 to 7 intentionally formed as unlawful assembly and with a view to kill him attacked on LW.1, pulled him and kicked with legs. Meanwhile, A.2 tried to stab LW.1 by taking knife from his pocket. While LW.1 was trying to escape, remaining A.3 to A.7 attacked with iron rods and caused injuries on his stomach and dragged him. On noticing the incident by Sri P.Sundhar Singh and others reached there and rescue him.

Since the charge sheet is filed alleging that the petitioners intentionally forming as unlawful assembly and the matter is compromised, it is just and necessary to grant leave to the petitioner to compound the offence.

In the result, the Petition is allowed granting leave to compound the offence. Having considered the facts and circumstances of the case, the proceedings in P.R.C. No.13 of 2017 on the file of VI Additional Metropolitan Magistrate, at Bheemunipatnam, Visakhapatnam, are hereby quashed.

Crl.P. No.12223 of 2017:

In view of the orders passed in Crl.P.M.P. No.13298 of 2017, this criminal petition is allowed.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date: 11.12.2017
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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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