

HON'BLE SRI JUSTICE P. KESHA RAO

I.A.No.2 of 2018

AND

CRIMINAL REVISION CASE No.1928 of 2018

COMMON ORDER:

Heard the learned counsel for the petitioner as well as the 1st respondent and the learned Public Prosecutor appearing for the 2nd respondent State.

The present revision case is filed questioning the order passed in CrI.M.P.No.311 of 2018 in S.C.No.231 of 2016 dated 04.07.2018 on the file of the Assistant Sessions Judge, Medchal, Ranga Reddy District, dismissing the petition filed under Section 320 Cr.P.C., to compound the offence under Section 354 IPC.

The facts in brief are that the petitioner has been charged for the offence under Section 354 IPC in S.C.No.231 of 2016. Pending the said case, the petitioner filed CrI.M.P.No.311 of 2018 seeking permission of the Court below to compound the offence. The said petition was dismissed by orders dated 04.07.2018. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the learned Assistant Sessions Judge erred in refusing to grant permission to compound the offence under Section 354 IPC, which is compoundable as per the judgment

of this Court in **Nallajerla Murali Krishna @ Murali vs.**

State of Telangana¹. The relevant portion reads as under:

“Now coming to the scope of prospective or retrospective operation of any legislation with reference to the Article 20 of the Constitution of India more particularly from clause (1) is that, no person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of offence. In fact the severe punishment is provided in the State Legislation that is applicable for the offences committed prior to the Central Legislation covered by the Amended Act of 2013, which came into force with effect from 03.02.2013. However, the expressions of the Apex Court say Article 20 of the Constitution of India is a protection to the accused of a crime from commission of the alleged offence till end of trial and during pendency of the lis. Any beneficial legislation can be extended to the accused. Conviction and sentence of accused in a criminal proceedings under the ex post facto law is prohibited as the sentence that to be imposable is for the act done and on the date of commission of offence but sentence imposable is on completion of trial. This constitutional guarantee applicable is thus only in respect of the substitute law for conviction and sentence and it does not extend to mere procedural law and change in the rules of evidence and the like, since there is no guarantee that the parties have a right to be tried by a particular Court or under a particular procedural law. However, it is not unconstitutional where the law provides for a minimum penalty than, which would have been inflicted under the law at the time when the offence was committed, by taking into consideration of the subsequent legislation to benefit the accused, the Court can impose the lesser sentence provided by the subsequent legislation which came into force after commission of the offence. The expressions in this regard of the Apex Court are *Rattanlal vs. State of Punjab* (AIR 1965 SC 444) and the subsequent expression in *T. Barai Vs. Henry Ah Hoe* (supra), referred supra among others including *Satwant Singh vs. State* (AIR 1960 SC 266) and *Sajan Singh vs. State* (AIR 1964 SC 464).

Having regard to the above, once the beneficial legislation is applicable to the accused from the Criminal Law Amendment Act, the offence is compoundable under Section 320(2) Cr.P.C. by virtue of the original and subsequent Central Legislations even any inconsistency with the existing State Amendment received the assent of the President will not prevail over the subsequent Central Legislation. Therefore, the appellate court should have been considered for compounding of the offence rather than return. Accordingly, Point No. 1 is answered.”

¹ 2015 (2) ALD (CrI) 428

I.A.No.2 of 2018 is filed seeking permission of the Court to compound the offence under Section 354 IPC in the light of the memorandum of joint compromise memo filed by the parties.

A perusal of the said joint compromise memo reveals that the disputes arose between the petitioner and the 1st respondent are resolved and the 1st respondent does not want to continue the criminal proceedings against the petitioner.

Both the parties are present in the Court and on examination they have stated that I.A.No.2 of 2018 is filed voluntarily without any undue pressure from any corner. The parties have been identified by their respective counsel. They produced the Xerox copies of the Aadhar cards and the same are made as part of the record.

In the light of the facts stated in the affidavit and after hearing both the counsel and the learned Public Prosecutor, I.A.No.2 of 2018 is allowed.

Consequently, the criminal revision case is allowed quashing the proceedings initiated against the petitioner in S.C.No.231 of 2016 for the offence under Section 354 IPC on the file of the Assistant Sessions Judge, Medchal, Ranga Reddy, in the interest of justice.

Miscellaneous petitions, if any, shall stand closed.

P. KESHA RAO, J

Date: 26.07.2018.
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