

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

I.A.NO.2 OF 2019 IN CRIMINAL PETITION NO.13732 OF 2018
AND CRIMINAL PETITION NO.13732 OF 2018

COMMON ORDER

The petitioners are A1 to A4 in C.C.No.525 of 2018 on the file of the learned Additional Judicial First Class Magistrate, Sattupalli. By way of this petition filed under Section 482 CrPC, they seek quashing of the proceedings in the said case. The charge leveled against the petitioners is under Section 304A IPC read with Section 34 IPC.

According to the prosecution, owing to the negligence on the part of the accused, one Eerla Adinarayana, who was working as a coolie under their supervision, died when the iron pipe he was carrying came into contact with a 11 KV electrical live wire.

While so, I.A.No.2 of 2019 was filed by Eerla Gopi, the son of the deceased and the complainant in Crime No.68 of 2017 on the file of Aswaraopet Police Station, Bhadradi Kothagudem District, from which C.C.No.525 of 2018 arose. Thereby, he sought recording of the compromise arrived at by and between the parties and quashing of the proceedings in the calendar case. In the affidavit filed in support of the I.A., Eerla Gopi stated that it was basing upon his complaint that the Aswaraopet Police registered a case in Crime No.68 of 2017 and filed a charge-sheet leading to registration of C.C.No.525 of 2018 on the file of the learned Additional Judicial First Class Magistrate, Sattupalli. He further stated that during the pendency of the case upon the intervention of elders and well wishers, the accused in the case agreed to compensate him suitably and he is therefore willing to amicably settle the matter.

It may be noted that in terms of Section 320 CrPC, an offence under Section 304A IPC is not compoundable. However, in the light of the law laid down by the Supreme Court in *GLAN SINGH V/ s. STATE OF PUNJAB*¹, the position would be different when it comes to exercise of inherent powers by this Court under Section 482 CrPC. In this regard, reference may be made to the observations of the Supreme Court in para 61 of the said judgment, which reads as follows:

'61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on

¹ (2012) 10 SCC 303 : (2013) 1 SCC (Cri) 160

different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the 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.'

The parties are present in person and produced their Aadhaar cards/copies of their Aadhaar cards in proof of their identity. When asked whether he was willing to settle the matter, Eerla Gopi confirmed in person that he received a sum of Rs.2,00,000/- as compensation from the accused and is therefore willing to settle the matter.

The offence alleged is under Section 304A IPC and the gravity of such an offence would not stand on par with the serious offences cited by the Supreme Court in para 61, extracted *supra*, as cases which would not be amenable to compromise. Further, the *mens rea* in a case involving

causing of death by a rash or negligent act would not be comparable with the *mens rea* in a case involving murder or rape.

In that view of the matter, this Court is of the opinion that no purpose would be served by the State prosecuting the case on hand as the accused have suitably compensated the complainant to his satisfaction.

Therefore, I.A.No.2 of 2019 is ordered recording the settlement arrived at by and between the parties. In consequence, CrI.P.No.13732 of 2018 is allowed quashing the proceedings in C.C.No.525 of 2018 on the file of the learned Additional Judicial First Class Magistrate, Sattupalli.

22nd APRIL, 2019

Svv

SANJAY KUMAR, J

