

THE HONOURABLE SRI JUSTICE K. SREENIVASA REDDY

**I.A.Nos.1 & 2 of 2023 in Criminal Petition Nos.1297 of 2023
and 3292 of 2022**

AND

Criminal Petition Nos.1297 of 2023 and 3292 of 2022

COMMON ORDER:-

Since these two Criminal Petitions arise out of the same Calendar Case, they are being disposed of by this common order.

Criminal Petition No. 1297 of 2023 is filed by A1 and Criminal Petition No.3292 of 2022 is filed by A2 to A4, to quash the proceedings in C.C.No.144 of 2022, on the file of the Court of I Additional Judicial First Class Magistrate, Kakinada.

2. Heard the learned counsel for the petitioners and the learned Special Assistant Public Prosecutor.

3. During pendency of both the Criminal Petitions, the petitioners filed I.A.Nos.1 and 2 of 2023 in each Criminal Petition, seeking to permit them to compound the offence in C.C.No.144 of 2022. To that effect, they have filed Joint Memorandum signed by both the parties. It is stated in the affidavit filed in support of the above Applications that at the instance of elders, the parties have settled dispute amicably. Accordingly, the respondent No.2/the *de facto*

complainant has come to a conclusion not to proceed against the petitioners herein.

4. Both parties are present in the Court today. They have been identified by their respective counsel and the Special Assistant Public Prosecutor. This Court examined the respondent No.2/the *de facto* complainant and she has categorically stated that she does not intend to proceed with the case in view of the compromise arrived at, between the parties and intends to withdraw the case.

5. Some of the offences alleged are not compoundable. In ***Gian Singh v. State of Punjab & another***,¹ it is held thus: (para 57)

"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 F.I.R 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,

¹ 2012 (9) Scale 257

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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 predominatingly civil favour stand on 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 criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that 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.”

6. Learned counsel for the petitioners relied on the judgment of the Apex Court in **Ramgopal v. State of Madhya Pradesh**². The relevant portion of the said judgment reads as follows:

“19. We thus sum up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

7. This Court is satisfied with the identification of the parties and voluntariness in arriving at the compromise. In view of the same, there is no hindrance to permit the

² 2021 SCC Online SC 834

parties to compromise. Hence, in view of the compromise, this Court is of the opinion that if trial is allowed to go on, no useful purpose will be served, and hence, continuation of the impugned proceedings is nothing but abuse of process of law. Accordingly, the proceedings in C.C.No.144 of 2022 on the file of the Court of I Additional Judicial First Class Magistrate, Kakinada, against the petitioners herein are quashed. Accordingly, both the Criminal Petitions and Interlocutory Applications are allowed.

Miscellaneous Petitions, if any, pending in both the Criminal Petitions, shall stand closed.

JUSTICE K. SREENIVASA REDDY

21.02.2023
GR

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Dated: 21.2.2023
GR

