

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE DR. JUSTICE CHILLAKUR SUMALATHA

I.A.Nos. 2 & 3 OF 2022
IN/AND

CRIMINAL PETITION NO: 6449 OF 2022

I.A.Nos. 2 & 3 OF 2022

Between:

Asgar Ali, S/o. Qurban Ali, Aged about 49 years, Occ. Auto Driver, R/o. H.No. 22-2-294, Zainab Nagar, Balshetty Keith Dabeerpura, Hyderabad.

...PETITIONER/2ND RESPONDENTS IN BOTH

AND

1. Mohammed Masiuddin @ Masi, S/o. Mohd. Gayas Mohinuddin, Aged about 24 years, Occ. Un-Employee, R/o. H.No. 17-6-201/2-1, Bibi Ka Alawa, Dabeerpura, Hyderabad.
2. Nadeem Mohiuddin, S/o. Anees Mohiuddin, Aged about 20 years, Occ. Student, R/o. H.No. 22-3-947/32/A/1, Puranihaveli, Dabeerpura, Hyderabad.
3. Mirza Shoaib Baig, S/o. Mirza Ahmed Baig, Aged about 22 years, Occ. Student, R/o. H.No. 22-3-947/32/A/1, Puranihaveli, Dabeerpura, Hyderabad.
4. Ahmed Husain @ Amer Hussain @ Gajni Amer, S/o Akhtar Hussain, Aged about 28 years, Occ. Trainer in Yousuf Gym, R/o. H.No. 22-3-947/33/A/1, Purani Haveli, Mirchowk, Hyderabad.
5. Mohd Salman Khan, S/o. Late Mohammed Kahleem Khan, Age about 30 years, Occ. Aluminium Fabricator, R/o. H.No. 6-109/1/12/205, Plot No. 1, Near N. J. Garden, Zam Zam Colony, Errakunta, Chandrayangutta, Hyderabad.
...RESPONDENTS/PETITIONERS IN BOTH
6. The State of Telangana, Through Public Prosecutor, Rep. by Station House Officer, Dabeerpura Police Station, Hyderabad, Telangana.

...RESPONDENT/RESPONDENT IN BOTH

I.A. NO: 2 OF 2022

Petition under Section 320(6) R/W 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to permit the petitioner to compound the offence and quash the proceedings in connection with P.R.C.NO.176 of 2020 pending on the

file of Honorable VIII Addl. Chief Metropolitan Magistrate at Hyderabad, and quash the same .

I.A. NO: 3 OF 2022

Petition under Section 320(2) R/W 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to permit the petitioner to record the compromise and quash the proceedings in connection with P.R.C.NO.176 of 2020 pending on the file of Honorable VIII Addl. Chief Metropolitan Magistrate at Hyderabad, and quash the same .

CRIMINAL PETITION NO: 6449 OF 2022

Between:

1. Mohammed Masiuddin @ Masi, S/o. Mohd. Gayas Mohinuddin , Aged about 24 years, Occ. Un-Employee, R/o. H.No. 17-6-201/2-1, Bibi Ka Alawa, Dabeerpura, Hyderabad.
2. Nadeem Mohiuddin, S/o. Anees Mohiuddin, Aged about 20 years, Occ. Student, R/o. H.No. 22-3-947/32/A/1, Puranihaveli, Dabeerpura, Hyderabad.
3. Mirza Shoaib Baig, S/o. Mirza Ahmed Baig, Aged about 22 years, Occ. Student, R/o. H.No. 22-3-947/32/A/1, Puranihaveli, Dabeerpura, Hyderabad.
4. Ahmed Husain @ Amer Hussain @ Gajni Amer, S/o Akhtar Hussain, Aged about 28 years, Occ .Trainer in Yousuf Gym, R/o. H.No. 22-3-947/33/A/1, Purani Haveli, Mirchowk, Hyderabad.
5. Mohd Salman Khan, S/o. Late Mohammed Kahleem Khan, Age about 30 years, Occ. Aluminium Fabricator, R/o. H.No. 6-109/1/12/205, Plot No. 1, Near N. J. Garden, Zam Zam Colony, Errakunta, Chandrayangutta, Hyderabad.

...PETITIONER/ACCUSED Nos. 1 to 5

AND

1. The State of Telangana, Through Public Prosecutor, Rep. by Station House Officer, Dabeerpura Police Station, Hyderabad, Telangana.
2. Asgar Ali, S/o. Qurban Ali, Aged about 49 years, Occ . Auto Driver, R/o. H.No. 22-2-294, Zainab Nagar, Balshetty Keith Dabeerpura, Hyderabad.

...RESPONDENTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to and in connection with the P.R.C.No 176 of 2020, on the file of VIII Additional Chief Metropolitan Magistrate at Hyderabad, and quash the same .

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in connection with the P.R.C.No 176 of 2020, on the file of VIII ADDL. Chief Metropolitan Magistrate at Hyderabad, pending disposal of the above Criminal Petition .

These Petitions coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri MOHD ISLAMUDDIN ANSARI ,Advocate for the Petitioners and Crl.Petition and Respondent Nos.1 to 5 in I.A.Nos. 2 & 3 of 2022 and the Assistant Public Prosecutor on behalf of the Respondent No.6 in I.A.Nos. 2 & 3 of 2022 and Respondent No.1 in Crl.Petition and of Sri . MD.SADATH HUSSAIN Advocate for the Respondent No.2 in Crl.Petition and Petitioner in I.A.Nos. 2 & 3 of 2022 .

The Court made the following: ORDER

THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

I.A.Nos.2 & 3 of 2022

IN/AND

CRIMINAL PETITION No.6449 OF 2022

ORDER:-

1. The petitioners who are arrayed as Accused Nos.1 to 5 in P.R.C.No.176 of 2020, that stood pending on the file of the Court of VIII Additional Chief Metropolitan Magistrate, Hyderabad, have filed the present Criminal Petition seeking to quash the proceedings.
2. While the Criminal Petition which is filed to quash the proceedings stood pending, two interlocutory applications vide I.A.No.2 of 2022 and I.A.No.3 of 2022 were filed seeking the Court to permit the petitioners to enter into compromise with the 2nd respondent/*de facto* complainant, to compound the offences and thereby to quash the proceedings.
3. Heard the submission of Sri Mohd.Islamuddin Ansari, learned counsel for the petitioners/Accused Nos.1 to 5, Sri Mohd. Sadath Hussain, learned counsel for the 2nd respondent as well as learned Assistant Public Prosecutor.

4. Making his submission, learned counsel for the petitioners/Accused Nos. 1 to 5 contends that the petitioners have not committed any grievous offences as alleged in the charge sheet and after registration of the case, they entered into compromise with the *de facto* complainant and the *de facto* complainant, who made his appearance through an advocate before this Court, gave an affidavit stating that he intends to settle the matter and therefore, recording the compromise, the proceedings are liable to be quashed.

5. Learned counsel for the 2nd respondent/*de facto* complainant states that he concurs with the submission of the learned counsel for the petitioners/Accused Nos.1 to 5. However, learned Assistant Public Prosecutor vehemently opposing the relief sought for, submits that the offences committed by the petitioners/A-1 to A-5 are punishable under Sections 307, 320, 506, 109, 212 r/w.34 IPC and having regard to the grievous nature of the acts committed by the petitioners, the proceedings are not liable to be quashed.

6. The case of the prosecution as could be perceived through the contents of the charge sheet is that, in the midnight of 03.08.2020, A-1 to A-3 celebrated a party. In the early morning, i.e. on 04.08.2020, A-1 sent A-2 and A-3 to bring cigarettes. A-2 drove the vehicle and A-3 was the pillion rider. A-2 drove the vehicle in a rash and negligent manner. He could not control the vehicle and therefore, he dashed the vehicle against the auto of Respondent No.2/*de facto* complainant. On that, respondent No.2 abused A-2 & A-3. A-2 & A-3 also abused respondent No.2/*de facto* complainant. There was heated exchange of words. A-2 & A-3 beat the *de facto* complainant with hands. Information was passed to A-1. A-1 reached the spot. He beat the road passers who gathered there and created lot of nuisance. A-1 beat and abused the *de facto* complainant. A-1 removed one knife which was in his possession and tried to kill the *de facto* complainant, but the *de facto* complainant ran away from the spot. Later, A-1 approached A-4 and sought shelter to evade from arrest. On that, A-4 & A-5 gave shelter to A-1.

7. Learned counsel for the petitioners/A-1 to A-5 made a submission that no grievous injuries were sustained by

the *de facto* complainant and thus, Section 307 IPC will not attract. In this regard, learned counsel for the petitioners relied upon a decision of the High Court of Allahabad in the case between **Dr.Mohd.Ibrahim And Ors. Vs.State of U.P. and Ors.**

8. On the other hand, learned Assistant Public Prosecutor contends that sustaining grievous injuries is not a pre-requisite for the offence to attract the ingredients of Section 307 IPC. This Court is in full agreement with the learned Assistant Public Prosecutor in this regard. Now, coming to the aspect of compromise, learned counsel for the petitioners, contending that when both parties have arrived at a settlement, the proceedings can be quashed though the allegation laid is that they committed offence punishable under Section 307 IPC, relied upon the decision of the Hon'ble Apex Court in the case between **STATE OF MADHYA PRADESH Vs. LAXMI NARAYAN AND OTHERS¹**. In the said decision, discussing at length with regard to the power that can be exercised by High Court which is granted under Section 482 Cr.P.C., the Court

¹ (2019) 5 Supreme Court Cases 688

summarized the legal position at Para 15 and the same is extracted as under:-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous

and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/ or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove -

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

9. Thus, the Hon'ble Apex Court did not state that when the allegations are grave in nature and when the offences alleged to have been committed by the accused relates to disturbance of public tranquillity and peace in the society, the proceedings can be quashed. Merely basing on the fact that the *de facto* complainant entered into compromise, the criminal proceedings cannot be quashed. The contents of the charge sheet reveals the following facts:-

- (i). Accused No.1 is an active rowdy sheeter.
- (ii). Since 2017, Accused No.1 bears accusation of several offences, including the offence under Section 302 IPC and offences under Arms Act..

- (iii). Accused No.1 committed illegal acts involving breach, peace and public tranquillity.
- (iv). Accused No.1, by his activities, has created a sense of insecurity in the minds of public and posed a threat to the society.
- (v). Accused No.4 is a rowdy sheeter and he was also detained under the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986.
- (vi). Accused Nos. 2 & 3 are the friends of Accused Nos.1 and 4. There are as many as ten criminal cases that are pending against accused No.1, out of which, some are under Arms Act. There are as many as fifteen (15) criminal cases pending against Accused No.4, out of which, some are under Prevention of Destruction to Public Property Act and Arms Act.
- (vii) Accused No.5 is involved in a case where the allegation is that he committed offences punishable under Sections 302, 120-B and 506 IPC and also under Arms Act.

10. In spite of having such grave allegations against them, the petitioners have come forward seeking to quash the proceedings basing on the ground of compromise in a non-compoundable offence. Even in the decision that is relied upon by the learned counsel for the petitioners i.e. in the case of State of Madhya Pradesh Vs. Lakshmi Narayan and others (cited supra), the Court failed to appreciate the act of quashing of criminal proceedings for the offence punishable under Section 307 IPC mechanically. The observation made by the Court in this regard at Para 16 of the order is as follows:-

"16. Insofar as the present case is concerned, the High Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the firearm also in commission of the offence. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under Section 482 of the Code, which is not

sustainable in the eye of the law. The High Court has also failed to note the antecedents of the accused.

11. When the allegations are grave in nature and when the alleged acts of the accused have impact on the society, this Court is of the view that the proceeding cannot be quashed merely basing on the submission that there is amicable settlement between the *de facto* complainant and the accused. When the State has taken up the task of punishing the offenders who have committed heinous offences and have posed threat to the society, it is not desirable to quash the proceedings. In case, they are acquitted by the trial Court due to lack of evidence, it is altogether a different aspect. However, basing on the submission that the *de facto* complainant has already entered into compromise, the criminal proceedings cannot be put to an end.

12. Therefore, this Court considers that the interlocutory applications filed for recording compromise and for compounding the offences are liable to be dismissed. Further more, this Court does not find any grounds, more so, justifiable grounds to order for quash of proceedings that are pending against the petitioners.

13. Resultantly, I.A.Nos.2 & 3 of 2022 as well as the Criminal Petition are dismissed.

14. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

SD/-P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The VIII Additional Chief Metropolitan Magistrate at Hyderabad.
2. The Station House Officer , Dabeerpura Police Station, Hyderabad.
3. Two CCs to Assistant Public Prosecutor, High Court for the State of Telangana, at Hyderabad.(OUT)
4. One CC to SRI. MOHD ISLAMUDDIN ANSARI, Advocate [OPUC]
5. One CC to SRI. MD.SADATH HUSSAIN, Advocate [OPUC]
6. Two CD Copies
7. One Spare Copy

(along with a copy of Joint Memo of Compromise)

CDL

gbr



HIGH COURT

DATED:21/07/2022

ORDER

**I.A.Nos. 2 & 3 OF 2022
IN/AND**

CRL.P.No.6449 of 2022



DISMISSING THE CRIMINAL PETITION.

9
17/11/22
AVK

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

I.A. No. 3 of 2022

IN

CRL.P. No. 6449 OF 2022

Against

P.R.C No. 176 of 2020

On the file of Hon'ble VIII Additional Chief Metropolitan Magistrate at
Hyderabad.

Between:

- 1) Mohammed Masiuddin @ Masi S/o. Mohd. Gayas Mohinuddin ,
Aged about 24 years, Occ: Un-employee,
R/o. H.No. 17-6-201/2-1, Bibi Ka Alawa, Dabeerpura, Hyderabad.
- 2) Nadeem Mohiuddin S/o. Anees Mohiuddin,
Aged about 20 years, Occ: Student,
R/o. H.No. 22-3-947/32/A/1, Puranihaveli, Dabeerpura, Hyderabad.
- 3) Mirza Shoaib Baig S/o. Mirza Ahmed Baig,
Aged about 22 years, Occ: Student,
R/o. H.No. 22-3-947/32/A/1, Puranihaveli,
Dabeerpura, Hyderabad.
- 4) Ahmed Husain @ Amer Hussain @ Gajni Amer,
S/o Akhtar Hussain, Aged about 28 years,
Occ :Trainer in Yousuf Gym,R/o. H.No. 22-3-947/33/A/1,
Purani Haveli, Mirchowk, Hyderabad.
- 5) Mohd Salman Khan S/o. Late Mohammed Kahleem Khan,
Age about 30 years, Occ: Aluminium Fabricator,
R/o. H.No. 6-109/1/12/205, Plot No. 1, Near N. J. Garden,
Zam Zam Colony, Errakunta, Chandrayangutta, Hyderabad.
.....Petitioner/Accused Nos. 1 to 5

And

- 1) The State of Telangana, Through Public Prosecutor,
Rep. by Station House Officer,
Dabeerpura Police Station, Hyderabad, Telangana.
- 2) Asgar Ali S/o. Qurban Ali,
Aged about 49 years, Occ : Auto Driver,
R/o. H.No. 22-2-294, Zainab Nagar, Balshetty Keith,
Dabeerpura, Hyderabad.

... Respondents



JOINT MEMO / MEMORANDUM OF COMPROMISE

This memorandum of compromise is made and executed on this the day of April, 2022 at Hyderabad, Telangana., by and between : -

- 1) Mohammed Masiuddin @ Masi S/o. Mohd. Gayas Mohinuddin ,
Aged about 24 years, Occ: Un-employee,
R/o. H.No. 17-6-201/2-1, Bibi Ka Alawa, Dabeerpura, Hyderabad.
- 2) Nadeem Mohiuddin S/o. Anees Mohiuddin,
Aged about 20 years, Occ: Student,
R/o. H.No. 22-3-947/32/A/1, Puranihaveli, Dabeerpura, Hyderabad.
- 3) Mirza Shoaib Baig S/o. Mirza Ahmed Baig,
Aged about 22 years, Occ: Student,
R/o. H.No. 22-3-947/32/A/1, Puranihaveli,
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- 4) Ahmed Husain @ Amer Hussain @ Gajni Amer,
S/o Akhtar Hussain, Aged about 28 years,
Occ : Trainer in Yousuf Gym, R/o. H.No. 22-3-947/33/A/1,
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- 5) Mohd Salman Khan S/o. Late Mohammed Kahleem Khan,
Age about 30 years, Occ: Aluminium Fabricator,
R/o. H.No. 6-109/1/12/205, Plot No. 1, Near N. J. Garden,
Zam Zam Colony, Errakunta, Chandrayangutta, Hyderabad.

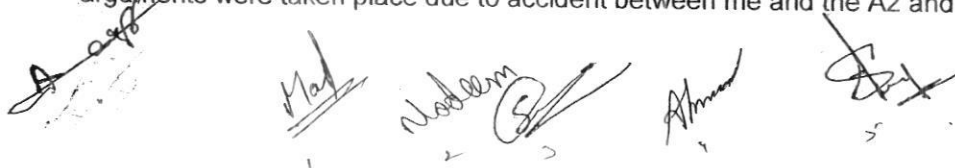
(Hereinafter referred to as "The First Party", which includes all their legal heirs, representatives, nominees etc., etc.,)

AND

Asgar Ali S/o. Qurban Ali, Aged about 49 years,
Occ : Auto Driver, R/o. H.No. 22-2-294, Zainab Nagar,
Balshetty Keith, Dabeerpura, Hyderabad.

(Hereinafter referred to as "The Second Party", which includes all his legal heirs, representatives, nominees etc.,)

1. That the Second Party has given a complaint to the S.H.O., Dabeerpura Police Station on 04.08.2020 and basing on the said complaint a crime in F.I.R.No.149/2020 was registered against the Accused/ First Party for the offence punishable u/s 307, 323, 506, 109, 212 r/w 34 IPC. Though only heated arguments were taken place due to accident between me and the A2 and A3 and



we hit each other with hands, but the police have mentioned the name of A1 in the complaint and directed me to sign the complaint and I have signed the same. I don't know A1, A4 and A5 and never met them any point of time and I am not interested in the said proceedings.

2. That the 2nd Respondent due to intervention of well-wishers and keeping in view of the fact that due to accident on 04.08.2020, heated arguments taken place between the second part of the 1st Party and the 2nd Party and the same was neither intentional nor wanton, and the 2nd respondent agreed to compromise and compound the offence i.e. P.R.C. No. 176 of 2020 pending on the file of Hon'ble VIII Addl. Chief Metropolitan Magistrate at Hyderabad, and has no grievance against accused/First Party.

First Party

1. ~~Moh~~ (MOHAMMED HASI UDDIN @MASI)
2. ~~Nadeem~~ (NADEEM MOHAMMAD UDDIN)
3. ~~S~~ (MIRZA SHOAIB BAIG)
4. ~~Ahmed~~ (AHMED HUSSAIN @AMER HUSSAIN)
5. ~~M~~ (MOHAMMAD SALMAN KHAN)

Counsel for the First Party.

Second Party

~~A~~ (ASGAR ALI)

Counsel for the Second Party.