

THE HONOURABLE SRI JUSTICE D.RAMESH

IA.Nos.1 and 3 of 2022

IN/AND

CRIMINAL PETITION No.378 Of 2022

COMMON ORDER: -

IA.Nos.1 and 2 of 2021

These applications are filed requesting the Court to permit the 2nd respondent/*defacto complainant* to compound the offences and record the compromise entered into by the parties and quash the proceedings in F.I.R.No.265 of 2021 on the file of the New Port Police Station, Visakhapatnam District. The offences alleged are under Section 304-B r/w 34 IPC.

2. Today i.e. on 22.03.2022 the parties, together, with their respective counsel, are present in the Court and the identity of the parties has been verified. On being specifically asked, both the parties confirmed the terms of compromise recorded in the joint memorandum of compromise appended to the applications.

3. The terms of the compromise show that at the advice of the elders and well wishers of the petitioner, they have settled the matter amicably in view of leading peaceful life of both the parties separately and keeping in mind the social status and in view of their future, they intended to compromise with each other and the *defacto complainant* inclined to withdraw the police report.

4. Heard learned counsel appearing for the petitioner/accused as well as learned counsel appearing for the 2nd respondent/*defacto complainant* and learned Assistant Public Prosecutor for respondent No.1-state.

5. Learned counsel for the petitioner submitted that the parties having arrived at compromise, the *defacto complainant* not desires to proceed

with the complaint and in view of the settlement, a joint memo has been filed, thereby sought for quashing of the proceedings in F.I.R.No.265 of 2021 on the file of the New Port Police Station, Visakhapatnam District.

6. Learned counsel further relied upon the observations of the Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and Another**¹, while adjudicating the inherent power of the High Court under section 482 of Criminal Procedure Code, 1973 [for short Cr.P.C.] in quashing the criminal proceedings against an offender, who has settled his dispute with the victim of the crime, but the crime in which he is allegedly involved is not compoundable under section 320 Cr.P.C., it was observed that -

“In a very recent judgment decided by this Court in the month of July, 2012 in *Jayrajsinh Digvijaysinh Rana v. State of Gujarat*², this Court was again concerned with the question of quashment of an FIR alleging offences punishable under Sections 467, 468, 471, 420 and 120-B IPC. The High Court refused to quash the criminal case under Section 482 of the Code. The question for consideration was that inasmuch as all those offences, except Section 420 IPC, were non-compoundable offences under Section 320 of the Code, whether it would be possible to quash the FIR by the High Court under Section 482 of the Code or by this Court under Article 136 of the Constitution of India. The Bench elaborately considered the decision of this Court in *Shiji*³ and by invoking Article 142 of the Constitution quashed the criminal proceedings. It was held as under:- (*Jayrajsinh' case*, SCC paras-13-15) :-

“13. *In the light of the principles mentioned above, inasmuch as Respondent No. 2 - the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice*

¹ (2012) 10 Supreme Court Cases 303

² (2012) 12 SCC 401

³ *Shiji V.Radhika*, (2011) 10 SCC 705: (2012) 1 SCC (Cri) 101

under Article 142 of the Constitution, we accept the terms of settlement in so far as the Appellant herein (Accused No. 3) is concerned.

14. In view of the same, we quash and set aside the impugned FIR No. 45 of 2011 registered with Sanand Police Station, Ahmedabad for offences punishable Under Sections 467, 468, 471, 420 and 120-B of IPC insofar as the Appellant (Accused No. 3) is concerned.

15. The appeal is allowed to the extent mentioned above.”

7. It is further held in the above judgment that –

“61. 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 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 flavour 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.”

8. In view of the above observations laid down by the Hon’ble Apex Court, in **Gian Singh Vs. State of Punjab and Another**⁴, with regard to the inherent power of the High Court under section 482 of Cr.P.C. in relation to non-compoundable offences, and having carefully considered the facts and circumstances of the case, and in view of the joint memo filed by the parties, I am satisfied that the aforesaid compromise is executed by the parties out of their free will and they confirm the terms thereof, when being specifically asked, there is no impediment in recording the said compromise.

9. The applications are accordingly allowed.

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10. Accordingly, the Criminal Petition is allowed and the proceedings in F.I.R.No.265 of 2021 on the file of New Port Police Station, Visakhapatnam District is quashed against the petitioner.

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

JUSTICE D.RAMESH

Date: 22.03.2022
PA.

⁴ (2012) 10 Supreme Court Cases 303

HON'BLE SRI JUSTICE D.RAMESH

CRIMINAL PETITION NO. 378 of 2022

DATED: 22.03.2022

PA.

HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

MAIN CASE No:CRL.P.No.378 of 2022

PROCEEDING SHEET

SL. NO.	DATE	ORDER	OFFICE NOTE
01.	22.03.2022	<p><u>DR, J</u></p> <p><u>I.A.NO.02/2022</u></p> <p>Dispense with petition is ordered.</p> <p>_____</p> <p>DR,J</p> <p>CRL.P.No.378 of 2022</p> <p>Criminal Petition is allowed. (VSO)</p> <p>_____</p> <p>DR,J</p> <p>PA.</p>	

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