
(2015) 02 AP CK 0011

In the Andhra Pradesh High Court

Case No : Criminal P.M.P. No. 16726 of 2014 in CrI. P. No. 15461 of 2014

Vemagiri Raviteja

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 09-02-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 326(6), 482
Penal Code, 1860 (IPC) — Section 313, 343, 376, 376(2)(n), 417

Citation : (2015) 2 ALD(Cri) 133 : (2015) 3 ALT(Cri) 392 : (2015) CriLJ 4255 :
(2016) 1 Crimes 129

Hon'ble Judges : U. Durga Prasad Rao, J.

Bench : Single Bench

Advocate : C. Raghu, for the Appellant

Final Decision : Dismissed

Judgement

U. Durga Prasad Rao, J.—The point for determination is "Whether permission can be accorded to the parties to compromise the case and compound the offences?"

2. POINT: On the report given by the de facto complainant, the Police of Nunna P.S. Vijayawada City registered FIR No. 361 of 2014 against accused for the offences under Sec. 343, 376(2)(n), 313, 506 IPC and conducted investigation and ultimately laid charge-sheet against him for the offences under Sec. 343, 417, 376(2)(n), 313, 506 and 509 IPC. The brief facts of the allegations are that the de facto complainant was studying 1st year B. Tech in SRM University during the relevant period of offence and the accused completed B. Tech. They met during the marriage of cousin brother of the complainant as the accused is the cousin brother of the bride and hence they are distant relations. Later, intimacy developed between them and the accused with his overtures of love, deceived her with a false promise of marrying her and had repeated sexual intercourse with her and eventually when she became pregnant, got her aborted and when she requested him to marry her, he refused. Thus her complaint led police to investigate and file charge-sheet.

3. While-so, when the investigation was pending, the accused filed CrI. P. No. 15461 of 2014 for quashing the FIR. When the said petition was pending enquiry, now the parties filed CrI. P.M.P. No. 16726 of 2014 under Section 326(6) of Cr.P.C. seeking permission of this Court for compounding the offence and to quash the criminal proceedings.

4. Learned counsel for both sides would submit that the parties are relations and keeping in view the future of the de facto complainant and accused, at the intervention of elders they entered into a compromise and therefore, the Court may be pleased to accord permission to compound the offence.

5. The terms of the compromise as can be culled out from the accompanying compromise memo in CrI. P.M.P. No. 16727 of 2014 are briefly that the de facto complainant agreed to receive Rs. 14,00,000/- for her education and future needs from the family of the accused and in return she agreed to compound the criminal case and she further agreed that she will have no further rights of any sort against the accused and his family members. These are precisely the terms of the compromise.

6. In this backdrop, having regard to the nature of the offence alleged and the terms of the compromise proposed to be entered, whether parties can be permitted to compound the case is the issue before this Court.

7. Of the offences charged, the offences under Sec. 376 and 313 I.P.C. are non-compoundable in nature. Whereas offence under Sec. 506 I.P.C. is compoundable and the offences under Sec. 343, 417 and 509 I.P.C. are compoundable with the permission of the Court. Be that it may, the main accusation is that the accused on a false promise of marrying the de facto complainant had repeated sexual intercourse with her and ultimately deceived her. When the case is looked in the individuals' point of view, no doubt the parties have entered into a sort of compromise and propose to put an end to the criminal proceedings. In a case of this nature, more than the interest of the individuals, the interest of the society is at stake. The offence alleged cannot be simply regarded as an offence against an individual rather it should be treated as an offence against society. Therefore, the Court must be circumspective and see whether according permission will subserve the societal interest or not. If the offence alleged is purely private in nature and parties want to bury the hatchet and lead harmonious life, then the Court may appreciate such action on the part of parties. However, on the other hand, if the offence alleged is the one which shakes the conscience of the society, the Court must be reluctant to accord permission. It was so held by Hon'ble Apex Court in its judgment reported in *Gian Singh Vs. State of Punjab and Another*, as follows:

"Para 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 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, 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. (Emphasis supplied) 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." So when the above caution note of Apex Court is applied to the present case, in view of the gravity of the offence, the permission cannot be accorded by this Court even exercising its plenary powers under Section 482 Cr.P.C. In my considered view, if the terms of compromise are approbated by this Court, they would resonate a wrong message to the society to the effect that a person can deceive a woman and get rid of the prosecution by paying some amount. This by no means will sub-serve the public good and interest of the society. Hence, this Court cannot give stamp of approval for such acts of the parties though they wish to compromise and bury their misdeeds under the carpet.

8. In the result, this Crl. M.P. No. 16726 of 2014 is dismissed.

Criminal Petition No. 15461 of 2014

9. In this petition filed under Section 482 Cr.P.C. the petitioner/accused seeks to quash the proceedings in FIR No. 361 of 2014 on the file of Nunna PS, Vijayawada City.

10. The brief facts of the complaint allegations are that the de facto complainant was studying 1st year B. Tech in SRM University during the relevant period of offence and the accused completed B. Tech. They met during the marriage of cousin brother of the complainant as the accused is the cousin brother of the bride and hence they are distant relations. Later, intimacy developed between them and the accused with his overtures of love, deceived her with a false promise of marrying her and had repeated sexual intercourse with her and eventually when she became pregnant, got her aborted and when she requested him to marry her, he refused. Thus on the report given by the de facto complainant, the Police of Nunna P.S. Vijayawada City registered FIR No. 361 of 2014 against accused for the offences under Sec. 343, 376(2)(n), 313, 506 IPC and investigating the matter.

11. When the matter came up for hearing, learned Public Prosecutor submitted that the police have filed charge-sheet in the mean while.

12. Heard both sides.

13. A perusal of the charge-sheet allegations would show a strong prima facie case against the accused. The offence alleged is a heinous one covering the charge under Section 376(2)(n) IPC. The petitioner seeks quashment on the ground that all the allegations are false. The truth or falsity of the allegations in the considered view of this Court can only be decided after full-fledged trial. Hence, having regard to the gravity of the offence, it is not a fit case to quash the proceedings.

14. In the result, this Criminal Petition is accordingly dismissed.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.