

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Crl.P.No.2768 of 2022

Between:

Mamidi Anil Kumar Reddy, S/o.Damodar Reddy,
aged about 33 years, Plot No.22,
Nithya Avenue, Abdullapurmet, Rangareddy District,
Telangana.

... Petitioner

And

\$ 1. The State of Andhra Pradesh,
Rep. by Public Prosecutor, Amaravati.

2. K.M.Gayatri, D/o.Late K.M.Ranganath,
Age 28 years, OCC:Pvt Employee,
R/o.G14 Sessa Sai Apartment, Puttaparthi,
Anantapur District.

... Respondents

Date of Judgment pronounced on : 23-11-2022

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No
of the Judgment?

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*** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

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% Dated: 23-11-2022

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... Respondents

! Counsel for petitioner : Sri Ramani Annam

^Counsel for Respondent No. 1 : Public Prosecutor

^Counsel for Respondent No.2 : --

<GIST :

>HEAD NOTE:

? Cases referred:

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**CRIMINAL PETITION No.2768 of 2022****ORDER:**

The petitioner is Accused No.1 in C.C.No.16 of 2021 on the file of the Junior Civil Judge/Judicial First Class Magistrate at Puttaparthi, for offences under Sections 498-A, 420, 506 of I.P.C read with Sections 3 & 4 of Dowry Prohibition Act, 1961.

2. The petitioner herein along with other accused in the case had compromised the matter with the de facto complainant and the trial Court on 26.06.2021 had acquitted all the accused on the basis of the said compromise after noting that the observation period is three months. Thereafter, the de facto complainant had filed a memo stating that she was not willing to compromise. On that basis, the trial Court by an order dated 20.07.2021 had reopened the case and posted it to 09.08.2021.

3. Aggrieved by the said reopening of the case, the petitioner had approached this Court, by way of the present criminal petition. It may also be noted that accused Nos.4 and 5 had also approached this Court, by way of CrI.P.No.5710 of 2021 which was disposed of on 11.11.2022, directing the petitioners to undergo trial while dispensing with their presence in the course of the trial.

4. The learned counsel for the petitioner would rely upon the Judgment of the Hon'ble Supreme Court in **State of Punjab and Another vs Jalour Singh and Ors.**, reported in Civil Appeal No.522 of 2008 dated 18.01.2008 to contend that the compromise recorded on 26.06.2021 cannot be set aside except by approaching this Court, by way of a writ petition. The relevant passage in the Judgment of the Hon'ble Supreme Court is as follows:

12. It is true that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under [Article 226](#) and/or [Article 227](#) of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under [Article 227](#) does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.

5. The learned counsel for the petitioner would also submit that the memo that is said to have been filed by the petitioner, withdrawing case, is not available in the Court records and the order of the Magistrate which is based on the memo has to be quashed.

6. The learned counsel for respondent No.2 submits that whatever actually filed was not a memo but was a petition.

7. The contention of the petitioner that in the normal course, the award of Lok-Adalat can only be challenged by way of a writ petition before this Court, in view of the Judgment cited by the petitioner requires to be accepted.

8. However, the amendment to Section 320 of Cr.P.C by way of A.P Amendment Act 11 of 2003 requires to be noted.

STATE AMENDMENT

Andhra Pradesh:- The following item and entries shall be inserted.

Husband or relative of Husband of a woman subjecting her to cruelty.	498-A	The women subjected to cruelty: Provided that a minimum period of three months shall elapse from the date of request or application for compromise before a Court and the Court can accept a request for compounding an offence under section 498A of the Indian Penal Code, 1860, provided none of the parties withdraw the case in the intervening period. (A.P. Act 11 of 2003, w.e.f. 01.08.2003, vide G.O.Ms.No.95, Law (LA&J Home(Courts-B), dt.01.08.2003)
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9. This amendment permits the compounding of an offence under Section 498-A of I.P.C before the Magistrates' Court. However, the said compounding of the offence is subject to the condition that none of the parties to the compromise withdraw the case in the intervening period.

10. This would mean that the Court upon an application being made for compounding, would have to wait for three months to elapse from the date of request or application for compromise before the same is accepted or the Court can also accept a request for compounding provided none of the parties withdrawing the case in the intervening period.

11. In the circumstances, the requirement of law is that an application for recording a compromise can be filed before the Court and a period of three months would have to be granted before the Court passes orders on the said compromise. In the alternative, an application for compounding can also be filed and the same can be accepted subject to the condition that the compounding of the offence is completed only if none of the parties withdraw their consent for the period of three months.

12. In the present case, the application for a compromise was filed on 26.06.2021 and the same was said to have been compounded under Section 320 of Cr.P.C on the

same day. However, the Magistrate also recorded that there would be an observation period of three months. Subsequently on 20.07.2021, the complainant/2nd respondent herein had withdrawn from the said compromise.

13. In the circumstances, the Judgment of the Hon'ble Supreme Court would not be applicable in the present case and the compromise/compounding would have to be treated as set aside in view of the specific provisions of A.P.Amendment Act 11 of 2003.

14. In the circumstances, the matter would have to be taken up for trial.

15. Accordingly, this Criminal Petition is closed.

Miscellaneous petitions, pending if any, in this Criminal Petition shall stand closed.

R. RAGHUNANDAN RAO, J

23.11.2022

RJS