



**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI**

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Criminal Petition No.1045 of 2021

1. Korlapu Sarada & Anr. ... Petitioners
- Vs.
1. The State of Andhra Pradesh, Rep. by Public Prosecutor,  
High Court of Andhra Pradesh, Amaravati,  
Guntur District & Anr. ... Respondents

**JUDGMENT PRONOUNCED ON : 19-02-2021**

**HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

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|---|--|-----|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | --- |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals       | Yes |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes |

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**CHEEKATI MANAVENDRANATH ROY, J.**



**\* HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**+ Criminal Petition No.1045 of 2021**

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# 1. Korlapu Sarada & Anr.

... Petitioners

**Vs.**

\$ 1. The State of Andhra Pradesh, Rep. by Public Prosecutor,  
High Court of Andhra Pradesh, Amaravati,  
Guntur District & Anr.

... Respondents

! Counsel for the Petitioners: Sri K. Chidambaram

Counsel for Respondent No.1: Public Prosecutor

Counsel for Respondent No.2: None

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> Head Note:

? Cases referred:

Nil.



**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**  
**CRIMINAL PETITION No.1045 of 2021**

**ORDER:-**

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed assailing the order dated 30.09.2019 passed in CrI.M.P.No.385 of 2019 in CrI.A.No.265 of 2016 on the file of the learned VI Additional District and Sessions Judge - Cum - Mahila Court, Visakhapatnam, whereby the petition filed under Section 320 Cr.P.C to permit the petitioners to compound the offences and acquit the petitioners under Section 320(8) Cr.P.C was dismissed.

2. The petitioners are originally accused in C.C.1298 of 2011 on the file of the learned I Additional Chief Metropolitan Magistrate, Visakhapatnam. They were tried for the offences punishable under Sections 498A, 326 IPC and under Sections 3 and 4 of the Dowry Prohibition Act. After trial, in the final adjudication of the said case, they were found guilty for the offences punishable under Sections 498-A and 326 IPC only and accordingly they were convicted for the said offences. They have been sentenced to under rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/- each for the said offences. They were acquitted for the offences punishable under Sections 3 and 4 of the Dowry Prohibition Act.

3. Aggrieved by the judgment of conviction for the offences under Sections 498-A and 326 IPC, the petitioners preferred appeal in CrI.A.No.265 of 2016 on the file of the learned VI Additional District and Sessions Judge - Cum - Mahila Court,



Visakhapatnam. The said appeal is now pending hearing before the said Court.

4. While so, the petitioners have filed a petition under Section 320 Cr.P.C before the appellate Court to permit them to compound the offence and to acquit them under Section 320(8) Cr.P.C. The said petition came to be dismissed by the impugned order on the ground that there is no provision to permit the petitioners to compound the said offence.

5. Aggrieved thereby, the instant petition under Section 482 Cr.P.C is filed before this Court assailing the legality and validity of the impugned order.

6. Heard learned counsel for the petitioners and the learned Additional Public Prosecutor for the State.

7. Admittedly, the petitioners were tried for the offence punishable under Section 326 IPC and they were also convicted for the said offence and were sentenced to undergo imprisonment for the said offence. Section 320 Cr.P.C is the relevant provision under which the accused can seek permission of the Court to compound the offence. Section 320 of the Code spells out a public policy with regard to the compounding of offences. To enable the accused and the *de facto* complainant/complainant to have harmonious settlement of the dispute relating to certain offences which are not grave in nature and which do not have adverse effect on the public peace in the society, the Legislature thought it fit to permit the parties to compound certain offences. Section 320 catalogues the offences punishable under the I.P.C. which may be compounded by the Court without permission of the Court and composition of



certain offences with the permission of the Court. Clause (5) of Section 320 mandates that when the accused has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court before which the appeal is to be heard. Therefore, it is clear that the accused can be allowed to compound the offence even before the appellate Court with the leave of the Court. The appellate Court has to exercise its discretion to grant leave to compound the offence after considering the gravity of the offence and other relevant factors. However, the said offence must be a compoundable offence. Clause (1) of Section 320 Cr.P.C deals with compounding of offences without permission of the Court and Clause (2) thereof deals with compounding of offences with the permission of the Court. Certain offences are enumerated therein in Clause (1) of Section 320 Cr.P.C and Clause (2) of Section 320 Cr.P.C which are compoundable without permission of the Court and with the permission of the Court. Section 326 IPC is not enumerated either in Clause (1) or Clause (2) of Section 320 Cr.P.C. Therefore, it is obvious that the offence under Section 326 IPC is a non-compoundable offence. Now it is relevant to note Clause (9) of Section 320 of Cr.P.C., which reads as follows:

“No offence shall be compounded except as provided by this section.”

8. So, it clearly indicates that the trial Court or the appellate Court can only permit or entertain request for compounding of offences which are compoundable offences only which are enumerated in Clauses (1) and (2) of Section 320 of Cr.P.C. So it is not within the competence of the trial Court or the appellate Court



to permit compounding of offences which are non-compoundable and which are not enumerated in Clauses (1) and (2) of Section 320 of Cr.P.C. Therefore, both the trial Court and the appellate Court has no jurisdiction to permit the petitioners to compound the offence under Section 326 IPC which is a non-compoundable offence and to acquit them under Section 320(8) Cr.P.C for the said offence.

9. So, the learned Sessions Judge has rightly dismissed the petition on the ground that there is no provision to permit the petitioners to compound the said offence. Therefore, the impugned order is perfectly sustainable under law and it does not suffer from any legal infirmity warranting interference of this Court, in exercise of its inherent powers under Section 482 Cr.P.C, to quash the said order.

10. Therefore, the Criminal Petition lacks merit and it is dismissed accordingly.

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

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**JUSTICE CHEEKATI MANAVENDRANATH ROY**

Date: 19-02-2021

AKN

Note:-

L.R. Copy to be marked.

(B/o)

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**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**CRIMINAL PETITION No.1045 of 2021**

**Date: 19-02-2021**

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