

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2017

CORAM

THE HONOURABLE MR.JUSTICE S.BASKARAN

Criminal Appeal Nos.530 & 537 of 2011

and

MP.Nos.2, 2 of 2015

1. M.Nandhakumar
2. Devaraj
3. V.Sakthivel
4. V.Gokulprasad

... Appellants
(in Crl.A.No.530 of 2011)

1. N.Rajkumar

... Appellant
(in Crl.A.No.537 of 2011)

Vs

State Rep. by the
Deputy Superintendent of Police
R2, Perur Police Station,
Coimbatore.

... Respondent
(in Crl.A.Nos.530 & 537 of 2011)

Criminal Appeal Nos.530 & 537 of 2011 filed under Section 374(2) of Criminal Procedure Code to set aside the order passed in Spl. S.C.No.2 of 2011 on the file of the learned Special Judge cum Principal District Sessions Judge, Coimbatore dated 29.07.2011.

For Appellants	:	Mr.S.Gunalan (in Crl.A.Nos.530 & 537 of 2011)
For respondent	:	Mr.E.Raja Additional Public Prosecutor (in Crl.A.Nos.530 & 537 of 2011)

COMMON JUDGMENT

Even though MP.Nos.2 in Crl.A.No.530 of 2011 & 2 of 2015 in Crl.A.No.537 of 2011 are listed today, considering the nature of order to be passed herein the main criminal appeals are taken up for final disposal.

2. The above Criminal Appeals have been filed to set aside the judgment dated 29.07.2011 passed in Spl. S.C.No.2 of 2011 on the file of the learned Special Judge cum Principal District Sessions Judge, Coimbatore.

3. The appellants/accused have been convicted and sentenced for the offence under Sections 147, 294(B), 341 and 323 of IPC and sentenced them to various periods ranging from 2 weeks to 3 months and fine of Rs.1000/- each on each account.

4. Pending the criminal appeals, the appellants/accused filed MP.No.2 of 2015 in Crl.A.No.530 of 2011 & MP.No.2 of 2015 in Crl.A.No.537 of 2011 to compound the above offence and acquit the appellants/accused convicted and sentenced in Spl.S.C.No.2 of 2011 on the file of the Special Judge cum Principal District Sessions Judge, Coimbatore, dated 29.07.2011 by allowing the above

appeals in Crl.A.No.530 of 2011 & Crl.A.No.537 of 2011.

5. The learned counsel appearing for the appellants/accused and the learned counsel appearing for the defacto complainant represented that the dispute between the parties was amicably settled and as such, both the parties are agreeing for compounding the offence and they have also entered into a compromise to that effect.

6. I have carefully considered the submissions of both sides and also perused the materials available on record.

7. It is seen that the appellants/accused have been convicted and sentenced under Sections 147, 294(B), 341 and 323 of IPC as stated above. Now it is submitted that the matter was amicably settled between the parties viz., the appellants / accused and the defacto complainant. The appellants have also filed a Joint Compromise Memo dated 23.12.2016, which reads here under:-

JOINT COMPROMISE MEMO filed in MP.No.2 of 2015

in Crl.A.No.530 of 2011

"The petitioners submit that one Mr.Karuppusamy @ Alagesh / defacto complainant preferred a complaint before the Respondent herein against the

petitioners. The Respondent herein filed a charge sheet against the petitioners in Spl.SC.No.2 of 2011 before the Special Judge, District Sessions Judge, Coimbatore. The accused 1, 3 to 5 were charged under Sections 147, 294(B), 341 and 323 of IPC and Section 3(1)(x) of SC & ST (Prevention of Atrocities) Act and the 2nd accused was also charged under Section 147, 294(B), 341, 323 and 506(i) of IPC and Section 3(1)(x) of SC & ST (Prevention of Atrocities) Act. The learned Trial Judge, after the trial, by his judgment dated 29.07.2011 acquitted the Accused 1 to 5 as not guilty under Section 3(1)(x) of SC & ST (Prevention of Atrocities) Act as well as the 2nd petitioner / 2nd accused not guilty under Section 506(i) of IPC. However, the learned Trial Judges held the petitioners guilty under Sections 147, 294(B), 341 and 323 of IPC and sentenced them to various periods ranging from 2 weeks to 3 months and fine of Rs.1000/- each on each account.

2. The petitioners submit that aggrieved by the judgment, the petitioners filed the above appeal before this Hon'ble Court. The petitioners and the defacto complainant are in the same neighborhood of Mathipalayam Village in Thenkarai Panchayat. The petitioners are working at various places. Due to the pendency of the above criminal case, they have undergone untold mental agony. They want to

live peacefully in their life; Hence, they have decided to settle the issue amicably. Therefore, they approached the defacto complainant through their well wishers for a compromise and the defacto complainant also agreed to compound the offences. Further, the defacto complainant has no objection to discharge the petitioner of their charges under Sections 147, 294(B), 341 and 323 of IPC. Hence, in the interest of justice, the compromise can be accepted and the petitioners may be acquitted from the charges. The defacto complainant has also filed a consent affidavit agreeing to the compounding of offences and for allowing the appeal."

JOINT COMPROMISE MEMO filed in MP.No.2 of 2015
in CrI.A.No.537 of 2011

"The petitioner submits that one Mr.Karuppusamy @ Alagesh / defacto complainant preferred a complaint before the Respondent herein against the petitioner and others. The Respondent herein filed a charge sheet against the petitioner and 4 others in Spl.SC.No.2 of 2011 before the Special Judge, District Sessions Judge, Coimbatore. The petitioner arrayed as 4th accused in the Spl.SC.No.2 of 2011. The accused 1, 3 to 5 were charged under Sections 147, 294(B), 341 and 323 of IPC and Section 3(1)(x) of SC & ST (Prevention of Atrocities) Act and the 2nd

accused was also charged under Section 147, 294(B), 341, 323 and 506(i) of IPC and Section 3(1)(x) of SC & ST (Prevention of Atrocities) Act. The learned Trial Judge, after the trial, by his judgment dated 29.07.2011 acquitted the Accused 1 to 5 as not guilty under Section 3(1)(x) of SC & ST (Prevention of Atrocities) Act as well as the 2nd petitioner / 2nd accused not guilty under Section 506(i) of IPC. However, the learned Trial Judges held the petitioners guilty under Sections 147, 294(B), 341 and 323 of IPC and sentenced them to various periods ranging from 2 weeks to 3 months and fine of Rs.1000/- each on each account.

2. The petitioner submits that aggrieved by the judgment, the petitioner filed the above appeal before this Hon'ble Court. The petitioner and the defacto complainant are in the same neighborhood of Mathipalayam Village in Thenkarai Panchayat. The petitioner is working at Kerala. Due to the pendency of the above criminal case, he has undergone untold mental agony. He wants to live peacefully in his life; Hence, he decided to settle the issue amicably. Therefore, he approached the defacto complainant through his well wishers for a compromise and the defacto complainant also agreed to compound the offences. Further, the defacto complainant has no objection to discharge

the petitioner of his charges under Sections 147, 294(B), 341 and 323 of IPC. Hence, in the interest of justice, the compromise can be accepted and the petitioner may be acquitted from the charges. The defacto complainant has also filed a consent affidavit agreeing to the compounding of offences and for allowing the appeal."

Thus, the learned counsel for the respective parties pleaded that the said compromise may be recorded and both the criminal appeals may be allowed.

8. It is represented by the learned Additional Public Prosecutor that on verification, it is established that the matter has been compromised between the parties and the same is true and correct. The learned Additional Public Prosecutor also stated that the State has no serious objection in entertaining the plea of the parties concerned, to compound the offence as prayed for.

9. In view of the above admitted fact that the matter has been amicably settled between the parties and considering the fact that both the counsel for the appellants / accused as well as the counsel for the defacto complainant, who appears for the 2nd respondent in MP.Nos.2, 2 of 2015 in CrI.A.No.530 & 537 of 2011 categorically stated before this Court about the amicable settlement entered into between the parties. The appellants have

also filed a Joint Compromise Memo dated 23.12.2016.

10. Taking into consideration the Joint Compromise Memo dated 23.12.2016 filed by the appellants herein, this Court is inclined to compound the offence under Sections 147, 294(B), 341 and 323 of IPC and to set aside the conviction and sentence imposed on the appellants herein.

11. In the result, recording the said Joint Compromise Memos dated 23.12.2016, the Criminal Appeal Nos.530 & 537 of 2011 are allowed. The conviction and sentence imposed on the appellants/accused in Spl. S.C.No.2 of 2011 by the learned Special Judge cum Principal District Sessions Judge, Coimbatore by judgment dated 29.07.2011 are set aside. The appellants / accused are acquitted. Bail bond, if any executed by them shall stand cancelled. Fine amount, if any paid by them are ordered to be refunded forthwith. In view of the above order, connected miscellaneous petitions are closed.

09.02.2017

Index:Yes / No

Internet : Yes / No

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To

1. The Learned Special Judge
cum Principal District Sessions Judge,

Coimbatore.

2. The Deputy Superintendent of Police
R2, Perur Police Station, Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

S.BASKARAN, J.
mk

Crl.A.Nos.530 & 537 of 2011

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