

BAIL SLIP

The Appellants/Petitioners/Accused Nos. 1 to 4 namely 1.Mohammed Safi S/o.Sofi 2.Aneeze S/o.Unnikrishnan, 3.Nandhakumar S/o.Ramamoorthy and 4.Mohan S/o.Thiyagaraj, were directed to be released on bail as per the order of this Court dated 18.02.2016 in Crl.MP.No.1819/2016 in Crl.A.No.131/2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE A. D. JAGADISH CHANDIRA

Crl.A.Nos.128 and 131 of 2016

and

Crl.M.P.Nos.16015 and 16018 to 16020 of 2019

in

Crl.A.No.131 of 2016

Crl.A.No.128 of 2016:

A.Shankar

... Appellant / A-7

Vs.

State by

The Inspector of Police,

Sulur Police Station, Coimbatore. ... Respondent/Complainant
(Crime No.1068/2008)

PRAYER: This Criminal Appeal has been filed, under Section 374 of Cr.P.C., to call for the records in Special C.C.No.1/2013, dated 25.01.2016, passed by the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore and set aside the same.

Crl.A.No.131 of 2016:

1.Mohammed Safi

2.Aneeze

3.Nandhakumar

4.Mohan

... Appellants / A1 to A4

Vs.

State by
The Inspector of Police,
Sulur Police Station, Coimbatore.
(Spl.C.C.No.1/2013)

... Respondent/Complainant

PRAYER: This Criminal Appeal has been filed, under Section 374 of Cr.P.C., against the Order passed in Special C.C.No1/2013, dated 25.01.2016, passed by the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore and set aside the same.

For Appellant in
Crl.A.No.128/2016 : Mr.V.Karthick, Senior Counsel
for M/s.T.S.Gopalan and Co.,

For Appellant in
Crl.A.No.131/2016 : Mr.V.Karthick, Senior Counsel
for Mr.S.Venkatesh

For Respondent in
both appeals : Mr.M.Mohamed Riyaz, APP

For De-facto Complainant : Mr.Sanjai, (Party in Person)

The Criminal Appeal No.128/2016 has been filed by the Appellant/A7 and Criminal Appeal No.131/2016 has been filed by the Appellants/A1 to A4, seeking to call for the records in Special C.C. No.1/2013, on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore and to allow the appeal and set aside the judgement of conviction and sentence dated 25.01.2016 as against the appellants / accused.

2. By the above judgment dated 25.01.2016, the appellants were found guilty and convicted and sentenced as hereunder;

Rank of the Accused	Found guilty	Conviction & sentence
A1 to A3	Under Section 324 read with 34 IPC and U/S 506(ii) IPC and U/S Section 3 read with 4 of Tamil Nadu Prohibition of Ragging Rules	Under Section 324 r/w 34 and 506 (ii) IPC to undergo Rigorous Imprisonment for one year each for each Section and fine of Rs.500/- (Rupees Five Hundred Only) each for each Section and in default of payment of which, to undergo Simple Imprisonment for Two months each for each section. Under Section Section 3 r/w 4 of Tamil Nadu Prohibition of Ragging Rules, to undergo Rigorous Imprisonment for one year each and imposed a fine of Rs.5000/- (Five Thousand Only) each and in default of payment of which to undergo Simple Imprisonment for Two months each.
A4 (A1 to A4 are appellants in CrI.A.No. 131 of 2016)	Convicted under Section 324, 506 (ii) IPC and U/ S. 3 r/w 4 of Tamil Nadu Prohibition of Ragging Rules	Sentenced under Section 324 and 506(ii) IPC to undergo Rigorous Imprisonment for one year for each Section and imposed a fine of Rs.500/- (Rupees Five Hundred Only) for each Section and in default of payment of which, to undergo Simple Imprisonment for Two months for each section. Under Section Section 3 r/w 4 of Tamil Nadu Prohibition of Ragging Rules, to undergo Rigorous Imprisonment for one year and imposed a fine of Rs.5000/- (Five Thousand Only) and in default of payment of which to undergo Simple Imprisonment for Two months.
A7/Appellant in CrI.A.No. 128 of 2016	Under Section 4 read with 7 of Tamil Nadu Prohibition of Ragging Rules	Sentenced to undergo Rigorous Imprisonment One Year and imposed a fine of Rs.5000/- (Five Thousand Only) in default of payment of which, to undergo simple imprisonment for Two months.
The above sentences awarded to A1 to A4 and A7 were ordered to run concurrently and the sentences already undergone if any, were ordered to be set off under Section 428 Cr.P.C.		

3. The brief facts of the prosecution case remains that on

the complaint given by one Sanjai, the case in Crime No.1068/2018, was registered by the respondent police for the offences punishable under Sections 324, 377, 506(ii) of IPC and Section 4 and 7 of the Tamil Nadu Ragging Act, 1997. The respondent police after completion of investigation, filed the final report against totally seven accused including the present appellants for the offences under Sections 324, 377, 506(ii) of IPC and under Section 4 and 7 of the Tamil Nadu Ragging Act, 1997. The case was initially taken on file in C.C.No.197/2011, by the learned Judicial Magistrate, Palladam and thereafter, on the point of the jurisdiction, the case was transferred to the file of the learned Judicial Magistrate No.7, Coimbatore, and the number was re assigned as C.C.No.328/2011 and on appearance of the accused copies under Section 207 of Cr.P.C., were furnished. The learned Judicial Magistrate, finding that the charges against the accused persons were exclusively triable by the Court of Sessions, committed the case to the Court of Sessions, Mahalir Neethimandram (Mahila Court) and the case was taken up in Special Calendar Case No.1/2013. On appearance of the appellant/accused and upon perusing the entire case and after hearing both sides, the trial court framed charges against the Accused No. 1 to 5 for offences under Section 324, 377, 506 (ii) of IPC and under Section 4 and 7 of the Tamil Nadu Prohibition of Ragging Act, 1999 and against accused the Accused No 5 and 6 for the offences under Section 4 and 7 of the Tamil Nadu Prohibition of Ragging Act, 1999.

4. In order to prove the charges , the prosecution examined P.Ws.1 to 8 and marked Exs.P1 to P5 and no M.O's were marked on the side of the prosecution. No evidence was let in on the side of the defence.

5. The Trial Court, after completion of examination of witnesses, questioned the accused under Section 313(1)(b) of Cr.P.C., the appellants/accused persons denied the charges and after hearing the accused persons, the Trial Court, acquitted the accused A5 and A6 for all the charges and acquitted A1 to 4 for offence under Section 377 IPC and convicted the present appellants A1 to A4 and A7 as stated above. Challenging the judgment of conviction and sentence the present appeals are filed.

6. Mr.V.Karthick, learned Senior Counsel appeared for all the appellants and while assailing the judgement he raised the following grounds;

- a. The trial court failed to take into consideration the grave delay in the complaint and the registration of the F.I.R.
- b. The trial Court erred in convicting the

appellants for offence under Section 324 IPC when as per P.W.4, the Medical Officer, the injuries are simple in nature and that even as per the charge sheet, nothing had been specifically stated who had caused the injury and that the alleged weapon stated to have been used is not recovered or produced.

c. Though the charges had been framed against the appellants for the offences under Section 4 and 7 of the Tamil Nadu Prohibition of Ragging Act, 1997 the trial court without proper application of mind has strangely convicted the appellants for the offences under Rule 3, 4 and 7 of the Tamil Nadu Prohibition of Ragging Rules.

d. When there is absolutely no evidence with regard to proper compliance of the Tamil Nadu Prohibition of Ragging Rules the conviction for offences under Section 3, 4 and 7 of Tamil Nadu Prohibition of Ragging Rules cannot be sustained.

7. Irrespective of the above submission, the learned Senior Counsel would submit that the occurrence had happened on 08.10.2008 during a fight between the students in a hostel when they were pursuing their studies in a college. The appellants in C.A.128/2016 are college/hostel mates of the defacto complainant and the appellant in C.A. 131/2016 is the manager of the hostel. More than 11 years have lapsed after the occurrence and the appellants and the defacto complainant have completed their studies and they have settled in life after getting employed and some of the appellants have married and got children. The learned Senior Counsel would further submit that infact, the defacto complainant/victim P.W.1 had earlier preferred a Criminal Revision against the acquittal of A5 and A6 by the trial court and it was unnumbered and pending at S.R. stage and he had also filed CrI.A.No.610 of 2016 seeking enhancement of sentence for the present appellants. However, during the pendency of the proceedings, due to the intervention of teachers, well wishers and family members, the defacto complainant and the appellants have decided to bury their hatchets in order to move on in their lives and careers pursuant to which, they have decided to compound the offences and give a quietus and thereby they have filed necessary applications for compounding and to acquit the appellants. During the earlier hearing on 14.09.2017, P.W.1/defacto complainant had appeared as party in person and filed an affidavit seeking permission/leave to compound the offence and acquit the accused and he had not also pressed the unnumbered revision and the appeal in CrI.A.No.610 of 2016 and both were dismissed as withdrawn. The learned Senior Counsel would submit that the dispute between students who were inmates in a hostel is of private nature and

no public interest is involved.

7.1 The learned Senior Counsel would reiterate that the prosecution has failed to prove the charges under the provisions of Tamil Nadu Prohibition of Ragging Act beyond reasonable doubt in view of the fact that no complaint had been given to the Management after the occurrence and the inordinate delay in giving the complaint to the respondent police straight away without approaching the Management had not been duly explained and thereby the Trial Court erred in convicting the Appellants.

7.2 The learned Senior Counsel would further submit that the remaining offences which are sought to be compounded are Section 324 IPC and Section 506(ii) IPC. He would submit that the offence U/S 506(ii) IPC remains to be compoundable with the permission of the court even till date whereas the offence under Section 324 IPC after the amendment to Section 320 of Cr.P.C under the Code of the Criminal Procedure (Amendment) Act 2005 is not compoundable. However he would submit that the Code of Criminal Procedure (Amendment) Act 2005 came into force on and from 31.12.2009 and thereby offence under Section 324 IPC in this case on hand stood compoundable on the date of occurrence on 08.10.2008 which is much prior to the coming into force of the Code of Criminal Procedure (Amendment) Act 2005. He would thereby contend that this Court can permit the compounding of the offence under Section 324 IPC as it stood prior to the amendment. In support of this proposition, the learned Senior Counsel relied on the judgement of the Hon'ble Kerala High Court in *Bineesh and Another Vs. State of Kerala* reported in 2012 SCC online (Kerala) 31734.

7.3 Ultimately, the learned Senior Counsel would contend that the appellants in both appeals and P.W.1/defacto complainant are present before this Court today and that the incident had happened almost 11 years back and during the period in between, due to the intervention of teachers and elders in the family they being students from the same college have weaved a sense of fellowship of reunion and compromised the matter and have agreed and decided to compound the case in order to give a quietus. He would thereby submit that this Court by permitting them to compound and acquit the appellants can render complete justice.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that the Appellants in Crl.A.No.131 of 2016 are found guilty and convicted for offences under Section 324 IPC read with 34 and under Section 506 (ii) and Section 3 read with 4 of the Tamil Nadu Prohibition of Ragging Rules and the Appellant in Crl.A.No.128 of 2016 who is the Manager of the Institution has been found guilty and convicted

for offence under Section 4 read with 7 of the Tamil Nadu Prohibition of Ragging Rules. He would submit that the occurrence had taken place on 08.10.2008 and the complaint was preferred on the next day on 09.10.2008 and P.W.1 was examined and treated by P.W.4 Doctor on 09.10.2008 at 7.30 p.m. As per the evidence of P.W.4 Doctor and Ex.P.2, the Accident Register the injuries suffered by P.W.1 are simple in nature and the weapon had not been recovered. He would submit that the intimation to the Management of the Educational Institution had been given on 09.10.2008. He would submit that the Code of Criminal Procedure (Amendment) Act 2005, (Act 25 of 2005) came in to force from 31.12.2009. He would submit that the trial court had rightly convicted the appellants based on evidence.

9. P.W.1 and the Appellants in both the appeals are present before this Court. The compounding petitions are numbered as CrI.M.P.Nos.17061, 17062, 17063 and 17065 of 2019. P.W.1 and the Appellants have also filed supporting affidavits seeking compounding of the offences.

10. This Court enquired P.W.1 and the Appellants in person. P.W.1 submitted that he had preferred an appeal against the other accused who have been acquitted and it was numbered as CrI.A.No.610 of 2016 and also filed a Revision for enhancement of sentence in respect of the present appellants and it was in the S.R.stage in CrI.R.C. S.R.No.38453 of 2016 and while they were pending, he decided to pardon the accused and on his request, the appeal was dismissed as withdrawn on 16.08.2017 and the unnumbered Revision was dismissed as withdrawn on 23.08.2017. He further submitted that he had forgotten the incident and compromised with the appellants and he has also filed an affidavit on 14.09.2017 seeking to compound the case in CrI.A.Nos.128 and 138 of 2016. His father was to undergo a surgery at that time and it was also the wish of his father that he should pardon the Appellants and compound the case. He submitted that unfortunately, it was his father's last wish and as a dutiful son, he is bound to oblige it.

11. The first appellant submitted that he had completed D.M.E. and thereafter, pursued his higher studies and completed post Diploma in Tool Design, B.B.A. Occupation, National Design Engineering and presently working at Ilensys Systems Pvt. Ltd. at Hyderabad and that he is married and his wife is in advanced stage of pregnancy.

12. The second appellant submitted that after completing D.M.E., he completed B.Tech (Mechanical) and is running a Small Scale Industry at Kannoor District, Kerala and that he is married and has one a boy child aged 1½ years and his wife is at present pregnant.

13. The third appellant submitted that he had completed D.M.E. and working as an Engineer in T.V.S. Padi and that he is married and having a girl child aged 4 years.

14. The fourth appellant submitted that he has completed D.M.E. with Topper gradation and presently working as a Design Engineer at Siemens Ltd., Bangalore. He further submitted that his father is no more and he is taking care of his aged mother. All the appellants in Crl.A.131 of 2016, expressed their remorse and submitted that they feel sorry for the incident and they have also sought apology from P.W.1 and he has also pardoned them.

15. The Appellant in Crl.A.No.128 of 2016 submitted that he was working as a Manager at GNTC NTTF College and that in respect of the earlier incident on 17.09.2008, proper enquiry was conducted in the presence of the parents of P.W.1 and the other appellants and a quietus was given on 06.10.2008 and in respect of the incident on 08.10.2008, no intimation was given to the Management and the complaint had been given straight away to the respondent police and that he being placed similar as that of the Principal and Warden, he ought to have been acquitted.

16. Heard the counsels and perused the materials on record.

17. In the complaint Ex.P.1, the defacto complainant had spoken about two incidents i.e. One prior to 18.09.2008 and the second incident on 08.10.2008. In respect of the earlier incident, due enquiry had been conducted by the management in the presence of all the parents and students and it had been given quietus on 06.10.2008. In respect of the 2nd incident on 08.10.2008, without any complaint to the Management and without any enquiry, the complaint had been straight away given to the respondent police. Further the trial court is not clear as to under what provisions the charges are framed and for what offences the appellants are convicted. Having perused the evidence and materials on record, this Court is of the opinion that the prosecution has failed to prove the charges against the appellants / accused under Section 3, 4 and 7 of the Tamil Nadu Prohibition of Ragging Act beyond reasonable doubt and thereby, the conviction in respect of the charges under the Tamil Nadu Prohibition of Ragging Rules have to be set aside.

18. Now coming to the remaining charges under Section 324 and 506(ii) IPC, the learned Senior Counsel submitted that the offence under Section 506(ii) is compoundable with the permission of the Court till date and though Section 324 IPC is not compoundable after Amendment to Section 320 Cr.P.C by the Code of Criminal Procedure (Amendment) Act 2005, in this case on hand Section 324 IPC remained to be compoundable with the permission of the Court since Section 320(8) of the Code of Criminal Procedure (Amendment) Act 2005 came into effect from

31.12.2009 whereas the offence under Section 324 IPC was committed on 08.10.2008 and as per the old code it was compoundable by the complainant with the permission of the Court.

19. In *Bineesh and Another Vs. State of Kerala and Another*, reported in 2012 SCC online (Kerala) 31734, it has been held as follows;

"4. The question is whether the said petition for permission to compound the offence under section 324 IPC is allowable after the coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 (Act 25 of 2005) from 31.12.2009. If the answer is in the affirmative it would spare a consideration of this revision petition on merits as the composition of the offence will have the effect of an acquittal of the revision petitioners.

5. Certain facts and factors require compendious narration to answer the aforesaid question. Offences which are covered by the Table under sub-section (1) and the Table under sub-section (2), of section 320 of the Cr.P.C. can be compounded by the person specified in third column of the said tables. The offences covered by the Table under sub-section (1) are compoundable without permission of the court and offences covered by the Table under sub-section (2) are compoundable only with the permission of the court. Evidently, offence under section 324 IPC was compoundable with permission of the court till the coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 (Act 25 of 2005). Act 25 of 2005 brought in amendment to the Table appended to sub-section (2) of section 320 of Cr.P.C. so as to make the offence under section 324 IPC non-compoundable. Though Act 25 of 2005 was published on 23.6.2006 it was to take its effect only from the date of its notification. In this context, the decision of the Hon'ble Apex Court in *Mathura Singh and Others v. State of U.P.*, 2009 (2) KHC 759 assumes relevance. It was decided on 27.4.2009. Taking note of the fact that Act 25 of 2005 was not brought into force by notification, offence under section 324 IPC was held still compoundable, with the permission of the court. Later, it was notified on 31.12.2009. Thus, obviously, the offence under section 324 IPC became non-compoundable

on 31.12.2009. But, the point to be decided is whether CrI.M.A.No.2665 of 2012 filed jointly by the revision petitioners and the second respondent to whom hurt was caused, is allowable after the coming into force of Act 25 of 2005 on the ground that the offence under section 324 IPC was committed on 5.11.2007. The learned counsel for the petitioners relied on the decision of the Hon'ble Apex Court in Hirabhai Jhaverbhai v. State of Gujarat and Others ((2010) 6 SCC 688) to canvass the position that the said offence being one committed when the offence under section 324 IPC was compoundable, can still be compounded with the permission of the court. That case was decided by the Hon'ble Apex Court on 9.4.2010.

6. I have heard the learned counsel for the petitioners, the learned counsel for the second respondent and also the learned Public Prosecutor.

7. The learned counsel for the petitioners laid emphasis, particularly on paragraph 5 of Hirabhai's case(supra) that reads thus:-

"5. This Court finds that after coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 from 23.6.2006 the offence under Section 324 IPC is made non-compoundable. However, in this case the offence under Section 324 IPC was committed on 23.7.1986 on which date it was compoundable with the permission of the court. As the Code of Criminal Procedure (Amendment) Act, 2005 is not applicable to the facts of the case, the offence under Section 324 IPC would be compoundable with the permission of the court."

8. As a general rule, alterations in the form of procedure are retrospective in character in respect of all concerned pending matters unless there is some good reason or other why they should not be. In this case, I do not have to endeavour much on that issue in view of the decisions of the Hon'ble Apex Court in Mathura Singh's case (supra) and Hirabhai's

case (supra). It was held in Hirabhai's case (supra) that the amendment brought into section 320(2) of the Cr.P.C. took its effect only from the date of notification. In fact, the Code of Criminal Procedure (Amendment) Act, 2005, (Act 25 of 2005) itself makes it clear that the amendments made thereunder would take effect only from the date of notification. In the decision in Hirabhai's case (supra) the date of commission of offence was 23.7.1986. Paragraph 5 extracted above would reveal that the Hon'ble Apex Court found that after the coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 from 23.6.2006 the offence under section 324 IPC was made non-compoundable. A careful reading of paragraph 14 in Mathura Singh's case (supra) would set at naught the little doubt that may be created with respect to the date of coming into force of Act 25 of 2005.

"14. It requires to be noticed that the Cr.P.C (Amendment) Act, 2005 (Act 25 of 2005) amended S.320 of the Code and in the table under sub-section (2) (a) the words "voluntarily causing hurt by dangerous weapons or means" in Column 1 and the entries relating thereto in Columns 2 and 3 have been omitted. But the said amendment by Act 25 of 2005 has not yet been brought into force. Therefore, the offence under S.324 IPC is still compoundable with the permission of the Court." (emphasis supplied)

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9. As noted earlier, Mathura Singh's case (supra) was decided by the Hon'ble Apex court on 27.4.2009. Virtually, the Hon'ble Apex Court in both the aforesaid decisions held that an offence under section 324 IPC committed prior to the coming into force of Act 25 of 2005 would continue to be compoundable with the permission of the court. Act 25 of 2005 itself made it clear that the amendments brought in by that Amendment Act would take its effect only from the date of notification. Moreover, it is obvious from the decision in Hirabhai's case

(supra) that the relevant factor deciding whether an offence under section 324 IPC is compoundable or non-compoundable is the date of its commission. The extracted portion of the decision "However, in this case the offence under section 324 IPC was committed on 23.7.1986 on which date it was compoundable with the permission of the court" would undoubtedly suggest that the answer to the question whether an offence under section 324 IPC could be compounded with the permission of the court, would depend upon the answer to the question whether on the date of commission of the offence it was compoundable with the permission of the court. Thus, the cumulative effect of the decisions of the Hon'ble Apex Court referred supra, constrain me to come to the conclusion that despite the coming into force of Act 25 of 2005 with effect from 31.12.2009 an offence under section 324 IPC could be compounded with the permission of the court if the date of commission of the said offence is prior to 31.12.2009. In that view of the matter, the offence in this case being one committed on 5.11.2007, I am of the considered view that the offence under section 324 IPC could be compounded by the second respondent on whom hurt was caused, with the permission of the court.

10. Now, the question whether CrI.M.A.No.2665 of 2012 which carries the prayer for permission to compound the offence is to be allowed or not. The policy of law embodied in section 320 Cr.P.C is to promote friendliness between the parties and to restore peace between them. In this case, the compromise duly verified by the parties that was brought on record through the said joint application would undoubtedly show that the second respondent, the person on whom hurt was caused, has volunteered to compound the offence with the revision petitioners. I am convinced that no rancour now rests in their hearts and as such, it is a fit case to grant permission to compound the offence. Resultantly, the offence under section 324 IPC against the revision petitioners is compounded and the

conviction and sentence against them passed in C.C.No.1140 of 2008 dated 31.8.2009 of the Judicial First Class Magistrate Court-I, Chengannur and confirmed by the judgment in CrI.A.No.415 of 2009 of the Court of the Additional District & Sessions (Ad-Hoc) Judge, Mavelikkara are set aside. The composition of the offence shall have the effect of an acquittal of the revision petitioners with whom the offence has been compounded in terms of sub-section (8) of section 320 of Cr.P.C. The bail bonds, if any, will stand cancelled. If the revision petitioners had deposited any amount pursuant to the order dated 6.3.2012, the same shall be refunded to them on proper application."

20. The above decision of the Hon'ble Kerala High Court has been followed by the Hon'ble Gauhati High Court in Prabhat Das and Others Vs. State of Tripura and Others reported in 2013 SCC Online Gauhati 329 in which, it has been held as hereunder.

"12. In the case of Hirabhai Jhaverbhai v. The State of Gujarat reported in (2010) 6 SCC 688: (AIR 2010 SC 2321). The Apex court considered the same issue and in para 5 observed thus;-

"This Court finds that after coming into force of the Code of Criminal Procedure (Amendment) Act, 2005 from 23.06.2006 the offence under Section 324 IPC is made non-compoundable. However, in this case the offence under Section 324, IPC was committed on 23.07.1986 on which date it was compoundable with the permission of the Court. As the Code of Criminal Procedure (Amendment Act), 2005 is not applicable to the facts of the case, the offence under Section 324, IPC would be compoundable with the permission of the Court."

13. In both the above reported cases, the Apex Court considered that since the offence committed under Section 324 of IPC was before Amendment Act came into force, it was compoundable with the permission of the Court pursuant to the provisions prescribed under sub-section (2) of Section 320 of Cr.P.C. as was in force before the Code of Criminal Procedure Amendment Act, 2005 came into effect on 31.12.2009.

14. Relying on the law laid down by the Apex Court, the Hon'ble High Court of Kerala in the case of Bineesh, (2012 Cri LJ 4128) (supra) in almost under similar facts and circumstances of this case, allowed the petition by which the parties prayed for permission to compound the offence.

15. In the case at hand, the incident occurred on 21.02.2009. The Sessions Court ultimately found the convict-petitioners guilty of committing offence punishable under Section 447 and 324 of IPC. Section 447 is compoundable all along. Offence under Section 324 was compoundable before the Code of Criminal Procedure (Amendment Act), 2005 (Act 25 of 2005) came into force. Though the Act 25 of 2005 was published on 23.06.2006, it was stipulated that it shall come into effect only from the date of its notification. The Amendment Act was brought into force, by notification w.e.f. 31.12.2009. Evidently, on the date of occurrence, the offence under Section 324 of IPC was compoundable with the permission of the Court in view of the provisions prescribed in the table under Sub-section (2) of Section 320 of Cr.P.C.

16. The Amendment Act of 2005, intended to give effect w.e.f. the date of notification. So, before the date of notification though the amendment was made and published, it has no force and therefore, the provision which was existing before the date of coming into force and the Amendment Act shall operate. Normally in cases of all compoundable offences, compromise is encouraged and often such cases are referred to Lokadalat or mediation centres to have a settlement of the dispute between the parties with a view to bring amity between the parties and to maintain peace and tranquillity. Compromise, in all cases compoundable in nature, is for the benefit and welfare of the society as a whole and therefore, the Courts may encourage such compounding where the parties voluntarily come forward to do so.

17. In view of discussions made above, and the law settled down by the Apex Court, the petition made for permission to compound the offence is entertained and allowed.

18. In effect thereof as prescribed in sub-section (8) of Section 320 of Cr.P.C., the convict-appellant-petitioners are acquitted in view of the compounding of the offence and set at liberty.

21 . This Court having heard the Counsels and having enquired the appellants and the victim/P.W.1/ defacto

complainant, is convinced that the parties have earnestly decided to compromise the matter to restore friendship and weave a sense of fellowship and reunion. All of them have entered into a new phase in their careers and family lives and they have decided to give a quietus. This Court has to now see whether the case can be allowed to be compounded. Apart from the offence under the Tamil Nadu Prohibition of Ragging Act, the appellants have been convicted for offences under Section 324, 506(ii) and 34 of IPC. Prior to the amendment to Sec 320 Cr.P.C under the Code of Criminal Procedure (Amendment) Act 2005, the offence under Section 324 IPC was compoundable by the person to whom hurt is caused with the permission of the Court, in terms of Sec 320(8) Cr.P.C. The occurrence had happened on 08.10.2008. The Code of Criminal Procedure (Amendment) Act 2005 came into force/effect from 31.12.2009. On the date of occurrence i.e. on 08.10.2008, the offence under Section 324 IPC was compoundable with the permission of the Court as per the decisions referred supra. This Court after hearing the parties in person and perusing the affidavits is satisfied that the defacto complainant had for genuine reasons volunteered to compound the offences and thereby finds that it is a fit case to grant permission to compound the offence and thereby, the petitions for compounding are allowed.

22. In view of the above composition and the above findings, the appeals stand allowed and the judgment of convictions and sentence of imprisonment passed by the Court of Sessions Judge (Mahila Court), Coimbatore, in Spl. C.C.No.1 of 2013 dated 25.01.2016 stands set aside and the Appellants are acquitted of the charges. In view of the compounding of offences, the fine amounts stand forfeited to the government towards expenses for prosecution. Subsequently, the connected Miscellaneous Petitions in Crl.M.P.Nos.16015 and 16018 to 16020 of 2019 in Crl.A.No.131 of 2016 are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

ksa-2/ssi

To:

1.The Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore.

2.The Principal Sessions Judge, Coimbatore.

3.The Inspector of Police,
Sulur Police Station,
Coimbatore.

4. The Additional Sessions Judge,
Magalir Neethimandaram,
Coimbatore.

5. The District Collector/District Magistrate,
Coimbatore.

6. The District General of Police,
Tamil Nadu.

7. The Section Officer,
Crl.Section, Records,
High Court, Madras.

8.The Public Prosecutor, High Court, Chennai.

+1cc to M/s.T.S.Gopalan and Co, Advocate SR.No.96766

+1cc to Mr.S.Venkatesh, Advocate SR.No.96804

Crl.A.Nos.128 and 131 of 2016
and
Crl.M.P.Nos.16015 and 16018 to 16020 of 2019 in
Crl.A.No.131 of 2016

BR(CO)
GMY(06/11/2020)

सत्यमेव जयते
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