



WEB COPY



Crl.R.C.No.102 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.102 of 2018

Nanthakumar

... Petitioner

Vs.

R.Raja

... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to set aside the Judgment in C.A.No.187 of 2017 dated 07.11.2017 on the file of Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode confirming the sentence imposed in the Judgment dated 27.06.2017 in S.T.C.No.508 of 2016 on the file of Judicial Magistrate (FTC-II), Erode and to allow the above Criminal Revision.

For Petitioner : Mr.R.Nalliyappan
For Respondent : Mr.M.Guruprasad



Crl.R.C.No.102 of 2018

WEB COPY

ORDER

This Criminal Revision case has been filed as against the Judgment in C.A.No.187 of 2017 dated 07.11.2017, on the file of Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode, confirming the sentence imposed in the Judgment dated 27.06.2017 in S.T.C.No.508 of 2016, on the file of Judicial Magistrate (FTC-II), Erode.

2. Pending revision, the petitioner paid a sum of Rs.1,03,500/- by way of 2 Demand Drafts dated 11.10.2019 and 27.11.2019 for a sum of Rs.51,000/- and Rs.52,500/- respectively. This Court also recorded the submission made by the petitioner, on 23.09.2019 stating that pending revision, already the petitioner had paid a sum of Rs.70,000/- to the complainant.

3. The learned counsel for the respondent would submit that complainant/respondent died and as such the legal heirs of the respondent could not verify the same. He further submitted that the legal



heirs of the respondent have no knowledge, whether the second demand draft has been en-cashed or not.

4. Heard both sides.

5. It is seen from the records that the total sum of Rs.1,73,500/- has been paid by the petitioner. If the legal heirs of the respondent are able to prove that the said amount was not paid by the petitioner, they can very well approach the Trial Court to enforce the sentence imposed on the petitioner.

6. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***Ramgopal and others vs. The State of Madhya Pradesh reported in 2021 (6) CTC 240*** and the relevant paragraphs are extracted hereunder:-

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under [Article 142](#) cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also



Crl.R.C.No.102 of 2018

noteworthy that even in the absence of an express provision akin to [Section 482](#) Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under [Article 142](#) of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sumup and hold that as opposed to [Section 320](#) Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under [Section 482](#) Cr.P.C. or vested in this Court under [Article 142](#) of the Constitution, can be invoked beyond the metes and bounds of [Section 320](#) Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious



Crl.R.C.No.102 of 2018

of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

20. Having appraised the aforestated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under [Article 142](#) and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that: Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature; Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest; Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed; Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and



Crl.R.C.No.102 of 2018

voluntarily have buried their differences and wish to accord a quietus to their dispute(s); Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any illwill and have no vengeance against each other; and Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.

7. In view of the above, the Judgment passed in C.A.No.187 of 2017 dated 07.11.2017 on the file of Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode, confirming the sentence imposed in the Judgment dated 27.06.2017 in S.T.C.No.508 of 2016 on the file of Judicial Magistrate (FTC-II), Erode, are hereby set



Crl.R.C.No.102 of 2018

aside. It is made clear that if the legal heirs of the deceased respondent are able to disprove the payment made by the petitioner before the Trial Court, the order passed by this Court shall stand automatically cancelled and the legal heirs of the respondent can very well take appropriate steps to serve the remaining period of sentence by the petitioner.

8. Accordingly, this Criminal Revision case stands allowed.

31.10.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn



WEB COPY



Crl.R.C.No.102 of 2018

G.K.ILANTHIRAIYAN. J,

mn

To

1.The Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode.

2.The Judicial Magistrate (FTC-II), Erode.

Crl.R.C.No.102 of 2018

31.10.2022