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CRL.R.C.No.1085 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

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

Crl.R.C.No.1085 of 2018

Vishnu Exports
Proprietor A.Rajeshwari
W/o.Arulmozhi,
No.57, Uppiliyar Street,
Nanjappa Nagar,
Brahmana Periya Agraharam,
Erode – 638 005.

... Petitioner

Vs.

P.Karupannasamy

... Respondent

Prayer: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C to call for the records leading to the judgment passed by the II Additional District and Sessions Judge, Erode, in Crl.A.No.48 of 2018 date 02.08.2018 confirming the judgment passed by the Judicial Magistrate Fast Track No.I, Erode, in S.T.C.No.311 of 2017 dated 22.01.2018 and set aside the same.

For Petitioner	:	Mr.M.R.Thangavel for Mr.V.Balamurugane
For Respondent	:	Mr.D.Jagajothi



CRL.R.C.No.1085 of 2018

WEB COPY

ORDER

This Criminal Revision case has been filed to set aside the judgment passed by the Additional District and Sessions Judge, Erode, in Crl.A.No.48 of 2018 date 02.08.2018 thereby confirming the judgment passed by the Judicial Magistrate, Fast Track Court No.I, Erode, in S.T.C.No.311 of 2017 dated 22.01.2018.

2. Pending this revision, the matter has been amicably settled between the petitioner and the respondent. They also entered into a memorandum of compromise and the same has been produced before this Court.

3. In fact, the parties also entered into the compromise deed on 19.11.2020 and accordingly, the parties had settled the issue to the tune of Rs.5,70,000/- in which a sum of Rs.4,37,095/- was also deposited to the credit of trial Court and it is lying in the credit of S.T.C.No.311 of 2017 on the file of the Judicial Magistrate, Fast Track Court No.I, Erode, and the remaining amount of Rs.1,33,000/- was paid in cash to the



CRL.R.C.No.1085 of 2018

defacto complainant. Thereafter, the defacto complainant died. As such, no proof could be produced before this Court.

4. Today, the learned counsel for the petitioner would submit that while the defacto complainant was alive, they had entered into a compromise deed and accordingly, they settled the issues amicably between themselves.

5. 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 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



WEB COPY



CRL.R.C.No.1085 of 2018

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 sub-lime 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 sum-up 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 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.



CRL.R.C.No.1085 of 2018

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 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



WEB COPY



CRL.R.C.No.1085 of 2018

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 ill-will 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.

6. Considering the above facts and circumstances and in view of the amicable settlement arrived at between the parties, this Court is inclined to set aside the conviction order passed the Courts below.

7. Accordingly, the the criminal revision stands allowed and the judgment passed by the Additional District and Sessions Judge, Erode, in Crl.A.No.48 of 2018 date 02.08.2018 confirming the judgment passed by the Judicial Magistrate Fast Track No.I, Erode, in S.T.C.No.311 of 2017



CRL.R.C.No.1085 of 2018

dated 22.01.2018 are hereby set-aside and the terms of Joint Memo of Compromise, shall form part and parcel of this Order.

8. The legal heirs of the deceased respondent are permitted to withdraw the amount which is lying to the credit of S.T.C.No.311 of 2017 on the file of the Judicial Magistrate, Fast Track Court No.I, Erode, by filing appropriate application. It is also made clear that the Trial Court, without ordering any notice to the petitioner, shall permit the legal heirs of the deceased respondent to withdraw the same.

27.10.2022

Index: Yes/No
Speaking/Non-Speaking order
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WEB COPY



CRL.R.C.No.1085 of 2018

G.K.ILANTHIRAIYAN, J

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To

1. The Additional District and Sessions Judge, Erode.
2. The Judicial Magistrate, FTC No.I, Erode.

Crl.R.C.No.1085 of 2018

27.10.2022