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CRL.R.C.No.259 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

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

Crl.R.C.No.259 of 2018

1. K. Mariappan
2. K. Vanaja
petitioners

...

Vs

Periyasamy ... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the judgment dated 16.02.2018 made in C.A.No.13 of 2016 passed by the Additional District and Sessions Judge, Dharmapuri, thereby confirming the judgment dated 21.10.2016 made in S.T.C.No.121 of 2014 passed by the Fast Track (Judicial Magistrate Level) of Dharmapuri.

For petitioners : Mr.R.Selvakumar

For Respondent : Mr.B.Sundarapandiyan

ORDER

This Criminal Revision Case has been filed to set-aside the judgment dated 16.02.2018 made in C.A.No.13 of 2016 passed by the Additional District and Sessions Judge, Dharmapuri, thereby confirming the judgment dated 21.10.2016 made in S.T.C.No.121 of 2014 passed by the Fast Track (Judicial Magistrate Level) of Dharmapuri.



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2. While ordering suspension of sentence, this Court imposed condition that the petitioners shall deposit 50% of the cheque amount before the Fast Track (Judicial Magistrate Level), Dharmapuri. Accordingly, the petitioners deposited the 50% of the cheque amount to the credit of the Trial Court. Thereafter, pending revision, there is an amicable settlement between the parties and accordingly, the petitioners had brought the remaining cheque amount today by cash.

3. However, the learned counsel for the respondent submitted that the amount borrowed by the petitioners in the year 2011 and as such, he seeks atleast bank interest for the amount borrowed. However, this Court feels it would be proper to direct the petitioners to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) in addition to the cheque amount to satisfy the respondent.

4. In view of the above, apart from the balance amount, which is duly received by the learned counsel for the respondent, today in cash, the petitioners shall pay another sum of Rs.2,00,000/- (Rupees Two Lakhs only) on or before 21.11.2022.

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 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.

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 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. In view of the above, the judgment dated 16.02.2018 in C.A.No.13 of 2016 passed the Additional District and Sessions Judge,



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Dharmapuri, confirming the judgment dated 21.10.2016 in S.T.C.No.121

of 2014 passed by the Fast Track (Judicial Magistrate Level) of Dharmapuri, are hereby set-aside. Accordingly, this Criminal Revision Case is allowed on condition that the petitioners shall pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the respondent on or before 21.11.2022, failing which the conviction and sentence imposed on the petitioners by the Courts below shall stand automatically restored. The respondent is directed to withdraw the amount, which was already deposited before the Trial Court, by filing appropriate application. It is made clear that the Trial Court shall permit the respondent to withdraw the amount, without ordering notice to the petitioners herein.

02.11.2022

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The Additional District and Sessions Judge, Dharmapuri.
2. The Fast Track (Judicial Magistrate Level), Dharmapuri.



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G.K.ILANTHIRAIYAN, J

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