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Crl.R.C.No.303 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

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

Crl.RC.No.303 of 2020

Venkulakshmi

... Petitioner

Vs.

Kaviyarasu

... Respondent

PRAYER:

Criminal Revision filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the judgment made in CA.No.124 of 2019 dated 26.11.2019 on the file of the learned Principal Sessions Judge, Erode confirming the judgment made in STC.No.231 of 2018 dated 09.04.2019 by the learned Judicial Magistrate, Fast Track-I, Erode.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.J.Ranjithkumar

ORDER

This criminal revision has been filed to set aside the judgment made in CA.No.124 of 2019 dated 26.11.2019 on the file of the learned Principal Sessions Judge, Erode confirming the judgment made in



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STC.No.231 of 2018 dated 09.04.2019 by the learned Judicial Magistrate, Fast Track-I, Erode.

2. Heard, the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. While pending this revision, parties entered into compromise and amicably settled the issues between them. The affidavit dated 07.09.2022 of the respondent / complainant has also been filed before this Court and the relevant portion of the same is extracted hereunder:

5. I humbly submit that due to the intervention of common friends, petitioner and Myself have decided to settle the case amicably and arrived compromise without any coercion or undue influence. I had agreed to receive a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) as a full and settlement from the petitioner towards the cheque bearing 239705 for Rs.1,50,000/- dated 12.04.2018 drawn in the Syndicate Bank, Muthur Branch.

6. I humbly submits that, on 07.09.2022 I had received a sum of Rs.1,50,000/- (Rupees One Lakh and



Fifty Thousand only) by way of cash from the petitioner as a full satisfaction and the same was acknowledged with receipt. There was no due between us.

7. I submit that by virtue of amicable settlement and to the fact that I decided to drop further proceeding in the above case as the matter is amicably settled between us.

8. I most humbly submit that because of the above said reasons I have no objection to allow this present revision petition pending before this Hon'ble court.

4. 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 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 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 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.

5. In view of the aforesaid, the judgment in CA.No.124 of 2019 dated 26.11.2019 on the file of the learned Principal Sessions Judge, Erode and the judgment made in STC.No.231 of 2018 dated 09.04.2019 by the learned Judicial Magistrate, Fast Track-I, Erode are set aside. The above affidavit dated 07.09.2022 shall form part and parcel of this order. Whatever the amount deposited by the petitioner to the credit of the trial court in STC.No.231 of 2018 on the file of the learned Judicial Magistrate, Fast Track-I, Erode, the petitioner is permitted to withdraw



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the same by way of filing a proper application, since already the amount has been settled to the respondent. It is made clear that the trial court is directed to permit the petitioner to withdraw the said amount without ordering any notice to the respondent.

6. Accordingly, this Criminal Revision is allowed.

02.12.2022

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The learned Principal Sessions Judge,
Erode
- 2.The learned Judicial Magistrate,
Fast Track-I, Erode

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