



CRL.A.No.134 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2022

CORAM

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

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1. R.Selvaragam
2. S.Selvamani
3. S.Gnanaguru
4. J.Suresh
5. J.Rajesh
6. J.Kalyanasundaram

... Appellants

Vs

The State represented by
The Inspector of Police,
Srimushnam Police Station,
Cuddalore District.

... Respondent

Prayer :- Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to set aside the conviction and sentence imposed on the appellants in S.C.No.241 of 2019 on the file the learned III Additional District and Sessions Judge, Cuddalore, Vridhachalam.

For Appellants

: Mr.A.Malath Devapriyam

For Respondent

: Mr.A.Gopinath
Government Advocate (Crl.Side)



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JUDGMENT

This Criminal Appeal is directed as against the judgment dated 05.02.2020 passed in S.C.No.241 of 2019 by the learned III Additional District and Sessions Judge, Cuddalore, Vridhachalam, thereby convicting the appellants for the offence under Sections 323 of IPC and sentenced them to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- each in default to undergo further six months simple imprisonment.

2. Pending this appeal, the parties are entered into compromise and they settled the issue amicably. A Joint Memo dated 09.11.2022 filed before this Court which has been signed by the appellants and the second respondent and also by their respective counsel. It is relevant to extract the joint memo as follows :-

“It is submitted that the appellants and the second respondent (Manjula) are the residence of the Madhakalirmanickam Village within the jurisdiction of the first respondent's police station. The first appellant is a government servant and he is a cook in the government boy's hostel. The appellants 2 to 3 are the



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sons of the first appellant and they are the engineering graduates. The appellants 4 to 6 are the brother and brother's sons of the first appellant.

2. It is submitted that there was wordy quarrel between the appellant and P.W.2 Veeramuthu. To compromise the quarrel, the deceased Kolanji entered into and out of struggle, he fell down and became unconscious. P.W.2 Veeramuthu took the deceased to the hospital and the doctors informed that due to sudden cardio arrest he died. Immediately P.W.2 Veeramuthu to hide his fault given a false complain and the appellants were lodged for the offences under Sections 302, 323 & 294(b) of IPC.

3. It is submitted that the trial Court acquitted the appellants from the offence under Section 302 of IPC and convicted for the offence under Section 323 of IPC. The trial Court failed to consider that there is no single injury to the deceased and there is no offence was made out. Hence, the appellants filed the appeal before this Court and it is pending.



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4. *It is submitted that the appellants were convicted for the offence under Section 323 of IPC and it is a compoundable offence under Section 320 of Cr.P.C. Furthermore, the appellants were already convicted and an appeal is pending, they are entitled for compromise under Section 320(5) of Cr.P.C. The appellants and the victim are residing in the same village and also they are relatives. Hence, they want to compound between them.”*

3. All the parties are present and identified by their respective counsel and the Police. In order to identify the respective parties, they have also produced the copies of the Aadhaar Card are made part of the record. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

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](#)



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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;



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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



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resultant acquittal of the Appellants; more so looking at their present age.”

5. In view of the aforesaid judgment, the conviction and sentence imposed on the appellants in the judgment dated 05.02.2020 passed in S.C.No.241 of 2019 by the learned III Additional District and Sessions Judge, Cuddalore, Vridhachalam, are hereby set aside and the appellants are acquitted from all charges. Joint Memo dated 09.11.2022 shall form part and parcel of this Order.

6. Accordingly, the Criminal Appeal stands allowed.

30.11.2022

Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking order

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To

1. The III Additional District
and Sessions Judge,
Cuddalore, Vridhachalam
2. The Inspector of Police,
Srimushnam Police Station,
Cuddalore District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.,

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