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CRL.R.C.No.969 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

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

Crl.R.C.No.969 of 2018

S.J.Subramanian

... Petitioner

Vs.

S.A.Adalarasan

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the judgment passed in C.A.No.2 of 2017 on the file of the II Additional District and Sessions Judge, Salem, dated 21.08.2017 confirming the judgment passed in S.T.C.No.1159 of 2010 on the file of the Judicial Magistrate No.III, Salem, dated 09.12.2016 and acquitted the accused.

For Petitioner : Mr.P.Veeraraghavan

For Respondent : Mr.B.Kumarasamy

ORDER

This Criminal Revision case has been filed to set-aside the judgment passed in C.A.No.2 of 2017 on the file of the II Additional District and Sessions Judge, Salem, dated 21.08.2017, confirming the judgment passed



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in S.T.C.No.1159 of 2010 on the file of the Judicial Magistrate No.III,
Salem, dated 09.12.2016.

2. The learned counsel appearing for the petitioner would submit that pending the revision, the parties have entered into compromise and the petitioner had settled the entire amount as per the settlement directly to the respondent. They also entered into a joint compromise and it is produced before this Court.

3. The Joint memo of Compromise dated 06.10.2022, is extracted hereunder,

“ 1. The respondent filed Section 138 of Negotiable Instruments Act complaint as against the petitioner in S.T.C.No.1159 of 2010 on the file of Judicial Magistrate No III, Salem and the same was allowed and convicted the petitioner by judgment dated 09.12.2016. Against the Judgment of conviction petitioner filed an appeal on the file of Additional District Judge No II, Salem in C.A.No.2 of 2017 and the same was dismissed by judgment dated 21.08.2017. Aggrieved on the concurrent finding the petitioner preferred Criminal Revision Petition before this Hon'ble Court in Crl.R.C.No.969 of 2018 and the same was posted for reporting settlement dated on 10.10.2022 by this honourable court. Thereafter the petitioner and respondent herein had amicable settled the dispute by paying the disputed amount involved in the case by petitioner to respondent and thereby they decided to compound the offence.



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2. *It is submitted that even though the offence committed under Section 138 of Negotiable Instrument Act is compoundable in nature, in view of concurrent findings of conviction imposed as against the petitioner up to this Hon'ble Court, the petitioner and respondent in view of amicable settlement arrived between them as stated supra. They are approaching this Hon'ble Court through this petition by invoking inherent power of this Hon'ble Court for want of appropriate remedy. "*

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 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



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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 un-



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effected 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 above, the judgment passed in C.A.No.2 of 2017 on the file of the II Additional District and Sessions Judge, Salem, dated 21.08.2017 confirming the judgment passed in S.T.C.No.1159 of 2010 on the file of the Judicial Magistrate No.III, Salem, dated 09.12.2016, are hereby set-aside and the terms of Joint Memo of Compromise, dated 06.10.2022, shall form part and parcel of this Order.

6. Accordingly, this Criminal Revision case stands allowed.

10.10.2022

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

G.K.ILANTHIRAIYAN, J



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To

1. The II Additional District and Sessions Judge, Salem.
2. The Judicial Magistrate No.III, Salem.

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