



Crl.R.C.No.360 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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

Crl.R.C.No.360 of 2019
and Crl.M.P.No.6643 of 2019

J.Pondurai

... Petitioner

Vs.

R.Thangavelu

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set aside the conviction and sentence passed in C.A.No.301 of 2017 dated 27.09.2018 on the file of the I Additional District and Sessions Court, Coimbatore confirming the conviction and modifying the sentence made in C.C.No.459 of 2015 dated 13.09.2017 on the file of the Judicial Magistrate, Fast Track Court No.I, Coimbatore and convicting the petitioner for offence under Section 138 of Negotiable Instruments Act and sentencing to undergo six months simple imprisonment and directing to pay compensation of Rs.7,00,000/- within 2 months from the date of Judgment, failing which, sentencing to undergo 2 months simple imprisonment.



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For Petitioner : Mr.M.Sivavarthanan
For Respondent : Notice served
No appearance

ORDER

This Criminal Revision case has been filed as against the Judgment passed in C.A.No.301 of 2017 dated 27.09.2018 on the file of the I Additional District and Sessions Court, Coimbatore confirming the conviction and modifying the sentence made in C.C.No.459 of 2015 dated 13.09.2017 on the file of the Judicial Magistrate, Fast Track Court No.I, Coimbatore and convicting the petitioner for offence under Section 138 of Negotiable Instruments Act.

2. The learned counsel for the petitioner would submit that pending revision, parties have entered into a compromise and amicably settled their issues on payment of Rs.7,00,000/-. The said amount was duly received by the respondent. He has also filed a petition to compound the offence in Crl.M.P.No.6643 of 2019 in Crl.R.C.No.360 of 2019 before this Court.

3. The learned counsel for the respondent also concedes with the



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submission made by the learned counsel for the petitioner and the respondent has no objection to set aside the conviction against the petitioner herein, since the respondent had received the entire cheque amount.

4. The compounding affidavit, dated 12.04.2019 filed by the respondent reads as follows,

“1. I am the respondent herein and complainant as such I am well aware of the above facts and circumstances of the case.

2. I submit that I have initiated the 138 proceedings as against the petitioner herein in C.C.No.459 of 2015 on the file of the Judicial Magistrate Fast Track Court No.I, Coimbatore. After consideration of facts and circumstances the trial Court was pleased to convict the petitioner herein by its Judgment dated 13.09.2017, since the accused is found guilty under Section 138 of Negotiable Instrument Act, he is sentenced to undergo simple imprisonment for 6 months and to pay a compensation of Rs.7,21,000/- within 2 months and in default to undergo simple imprisonment for 2 months. Aggrieved against the said judgment the petitioner herein had preferred the criminal appeal in C.A.No.301 of 2017 and the appeal also fails and is dismissed. The Judgment of conviction and sentence by the trial Court are confirmed and compensation amount has been reduced to Rs.7,00,000/- (Rupees Seven Lakhs only) by the judgment dated 27.09.2018 passed by the I Additional District and Session Court, Coimbatore.

3. I submit that aggrieved against the orders of the Court below the petitioner/accused has preferred the above said



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Criminal R.C.No.360 of 2019 before this Hon'ble Court. During pendency of the above said Crl.R.C the dispute between us were amicably settled through negotiation. I submit that I received the cheque amount of Rs.7,00,000/- (Rupees Seven Lakh only) from the petitioner/accused as fully and final settlement and I have no other claim from the petitioner/accused”.

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 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



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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



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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.

6. In view of the above, the Judgment passed in C.A.No.301 of 2017 dated 27.09.2018 on the file of the I Additional District and Sessions Court, Coimbatore confirming the conviction and modifying the sentence made in C.C.No.459 of 2015 dated 13.09.2017 on the file of the Judicial Magistrate, Fast Track Court No.I, Coimbatore, are hereby set aside and the compounding affidavit, dated 12.04.2019 filed in Crl.M.P.No.6643 of 2019 in Crl.R.C.No.360 of 2019, shall form part and parcel of this Order.

7. Accordingly, this Criminal Revision case stands allowed.



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Consequently, connected Miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The I Additional District and Sessions Court, Coimbatore.

2. The Judicial Magistrate, Fast Track Court No.I, Coimbatore.



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G.K.ILANTHIRAIYAN, J

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