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CRL.R.C.Nos.864, 867 & 1026 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

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

CRL.R.C.Nos.864, 867 & 1026 of 2019

and

CrI.M.P.Nos.12701, 12734, 12703 & 12736 of 2019

CrI.R.C.No.864 of 2019;-

Baby

... Petitioner

Vs.

1.State by the Sub-Inspector of Police,
T-4, Madhuravoyal Police Station,
Chennai.
(Crime No.344 of 2012)

2.M.Uma

... Respondents

[R2 impleaded vide order dated
21.10.2019 in CrI.M.P.No.14281 of
2019 in CrI.R.C.No.867 of 2019]

Prayer: The Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to set aside the impugned judgment of the II Additional District and Sessions Judge, Thiruvallur at Poonamalle, dated 31.07.2019 in CrI.A.No.62 of 2018 confirming the sentence of the Judicial Magistrate at Poonamalle, in C.C.No.1 of 2014 dated 27.03.2018 and acquit the petitioner/Accused 3 herein of the charges in C.C.No.1 of 2014 (Crime No.344 of 2012) on the file of the Judicial Magistrate II, Poonamalle.



CRL.R.C.Nos.864, 867 & 1026 of 2019

Crl.R.C.No.867 of 2019;-

Anie

... Petitioner

Vs.

1.State by the Sub-Inspector of Police,
T-4, Madhuravoyal Police Station,
Chennai.
(Crime No.344 of 2012)

2.M.Uma

... Respondents

[R2 impleaded vide order dated
21.10.2019 in Crl.M.P.No.14281 of
2019 in Crl.R.C.No.867 of 2019]

Prayer: The Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to call for the records and set aside the judgment of the Appellate Court made in C.A.No.61 of 2018 dated 31.07.2019 on the file of the learned II Additional District and Sessions Judge, Thiruvallur, Poonamalle, in dismissing the appeal filed by the petitioner herein and confirming the conviction and sentence passed by the learned Judicial Magistrate No.II, Poonamalle, in C.C.No.1 of 2014 by judgment dated 27.03.2018 in convicting the petitioner herein for the offence under Section 465 IPC and sentencing him to undergo one year rigorous imprisonment and to pay fine of Rs.1000/- in default to undergo six months simple imprisonment also convicting the petitioner herein for the offence under Section 468 IPC and sentencing him to undergo six months simple imprisonment and also convicting the petitioner herein for the offence under Section 471 IPC and sentencing him to undergo one year rigorous imprisonment and to pay fine of Rs.1000/- in default to undergo six months simple imprisonment and all the sentence to run concurrently.



CRL.R.C.Nos.864, 867 & 1026 of 2019

Crl.R.C.No.1026 of 2019;-

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Velu

... Petitioner

Vs.

1.State by the Sub-Inspector of Police,
T-4, Madhuravoyal Police Station,
Chennai.
(Crime No.344 of 2012)

2.M.Uma

... Respondents

[R2 impleaded vide order dated
21.10.2019 in Crl.M.P.No.14281 of
2019 in Crl.R.C.No.867 of 2019]

Prayer: The Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to set aside the conviction and sentence passed by the learned Judicial Magistrate No.II, Poonamalle, in C.C.No.1 of 2014 judgment dated 27.03.2018 which has been confirmed in C.A.No.64 of 2018 on the file of the learned II Additional District and Sessions Judge, Thiruvallur at Poonamalle, and acquit the petitioner herein from the charges.

(In all the cases)

For Petitioner : Mr.C.Samadharmarasu

For Respondents

For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R2 : Mr.D.Vijayababu



CRL.R.C.Nos.864, 867 & 1026 of 2019

ORDER

WEB COPY Crl.R.C.No.864 of 2019 has been filed to set aside the impugned judgment of the II Additional District and Sessions Judge, Thiruvallur at Poonamalle, dated 31.07.2019 in Crl.A.No.62 of 2018 confirming the sentence of the Judicial Magistrate at Poonamalle, in C.C.No.1 of 2014 dated 27.03.2018 and acquit the petitioner/Accused 3 herein of the charges in C.C.No.1 of 2014 (Crime No.344 of 2012) on the file of the Judicial Magistrate II, Poonamalle.

2. Crl.R.C.No.867 of 2019 has been filed to set aside the judgment of the Appellate Court made in C.A.No.61 of 2018 dated 31.07.2019 on the file of the learned II Additional District and Sessions Judge, Thiruvallur, Poonamalle, in dismissing the appeal filed by the petitioner herein and confirming the conviction and sentence passed by the learned Judicial Magistrate No.II, Poonamalle, in C.C.No.1 of 2014 by judgment dated 27.03.2018

3. Crl.R.C.No.1026 of 2019 has been filed to set aside the conviction and sentence passed by the learned Judicial Magistrate No.II, Poonamalle, in C.C.No.1 of 2014 judgment dated 27.03.2018 which has been confirmed in



CRL.R.C.Nos.864, 867 & 1026 of 2019

C.A.No.64 of 2018 on the file of the learned II Additional District and Sessions Judge, Thiruvallur at Poonamalle, and acquit the petitioner herein from the charges.

4. The case of the prosecution is that in the first week of February 1996, the first accused went to the house of the defacto complainant and offered to sell the land comprised in S.Nos.127/49 in Plot No.11 to an extent of 1000 Square feet situated at Abirami Nagar Extension, Maduravoyal, Chennai, and also assured to hand over the land immediately after registration. Believing his words, the defacto complainant's father purchased the said property in the name of her daughter namely the defacto complainant, for a valid sale consideration by the registered sale deed dated 01.03.1996. Thereafter, with an intention to grab the said property, the first accused again sold the very same property in the year 1997 in favour of the second accused. In turn, the second accused sold the said property in favour of the third accused and registered a sale deed in 2002. Again, the second accused sold 600 square feet out of the 1000 square feet in favour of the fourth accused by a registered sale deed on 19.07.2005. After purchasing the said 600 square feet land, the fourth accused constructed a house and she was in possession. At that juncture, the defacto complainant found about the aforesaid transactions and lodged a complaint.



5. On receipt of the said complaint the respondent registered FIR in Crime No.344 of 2012 for the offence under Sections 420, 465, 468 and 471 IPC and after completion of investigation the respondent filed final report and the same has been taken cognizance by the trial Court in C.C.No.1 of 2014 for the offence under Sections 420, 465, 468 and 471 IPC.

6. On the side of the prosecution, the prosecution examined PWs1 to 5 as witnesses and marked Exs.P1 to P8 as exhibits and on the side of the petitioners, no one was examined and no document was marked.

7. On perusal of oral and documentary evidences, the trial Court found all the accused persons guilty and sentenced them as follows;-

(i) The first accused is found guilty for the offence under Sections 420, 465, 468 and 471 IPC and sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.2000/- in default to undergo simple imprisonment for six months for the offence under Section 420 IPC and sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- in default to undergo six months simple imprisonment for the offence under Section 465 IPC and sentenced to undergo rigorous imprisonment for one year and to fine of Rs.1000/- in default to undergo six months simple imprisonment for the



offence under Section 468 IPC and sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- in default to undergo six months simple imprisonment for the offence under Section 471 IPC and all the above sentences were to run concurrently.

(ii) The second accused is found guilty for the offences under Sections 465, 468 and 471 IPC and sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- in default to undergo six months simple imprisonment for the offence under Section 465 IPC and sentenced to undergo rigorous imprisonment of one year and to pay fine of Rs.1000/- in default to undergo six months simple imprisonment for the offence under Sections 468 IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- in default to undergo six months simple imprisonment for the offence under Section 471 IPC and above sentences to run concurrently.

(iii) The third accused is found guilty for the offence under Section 471 IPC and sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- in default to undergo simple imprisonment for six months.

(iv) The fourth accused is guilty for the offence under Section 471 IPC and sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- in default to undergo simple imprisonment for six months.



8. Aggrieved by the same, only the accused 2 to 4 preferred an appeal as after conviction, the first accused had died and the appeal same was dismissed confirming the judgment passed by the trial Court. Hence, the accused 2 to 4 had filed these revisions.

9. Pending these revisions, there is amicable settlement between the parties namely the petitioners and the defacto complainant. Accordingly, the accused 2 to 4 agreed to cancel the sale deed dated 27.06.2002 and 19.07.2005, which were registered vide Doc.Nos.3296 of 2002 and 4088 of 2005. Immediately after settlement, the fourth accused handed over the possession of the subject property to the defacto complainant and the learned counsel for the defacto complainant also confirmed the same. As per the settlement, the accused 2 to 4 have no future claim in the subject property.

10. 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.

11. It is seen that the petitioners are also bonafide purchasers. Further, the learned counsel for the petitioners would submit that they are very poor persons and they have no means to pay any stamp duty while presenting the cancellation deed. In fact, the fourth accused had put up construction in the said land to the value of Rs.25 lakhs, immediately after purchase, which is now worth about Rs.50 lakhs. Therefore, they lost everything and they are not in a position to pay any stamp duty.



CRL.R.C.Nos.864, 867 & 1026 of 2019

12. Considering the above submission, the petitioners shall cancel the sale deeds dated 27.06.2002 and 19.07.2005 on or before 14.11.2022 by cancellation deeds. While presenting the necessary documents for cancellation of sale deeds, the registering authority is hereby directed not to insist upon payment of stamp duty except payment of registration fees. The registering authority shall register the documents so presented for cancellation and hand over the same to them forthwith. On receipt of the same, the petitioners are directed to hand over the cancellation of sale deeds to the defacto complainant forthwith. In so far as, the sale deed executed in favour of the second accused dated 11.11.1997 is concerned, now the first accused, who executed the sale deed in favour of the second accused died. Therefore, the sale deed executed in favour of the second accused is hereby annulled and it is made clear that the petitioners have no title or right over the subject property hereafter and the sale deed executed in favour of the defacto complainant dated 01.03.1996 holds good. If the petitioners failed to execute the cancellation of sale deeds, the conviction and sentence imposed on the petitioners shall automatically stand restored. In such an event, the first respondent is directed to secure the petitioners to enable them to serve the remaining period of sentence.



CRL.R.C.Nos.864, 867 & 1026 of 2019

13. With the above directions, these criminal revision cases stand allowed. Consequently, connected miscellaneous petitions are closed.

31.10.2022

ata

Index : Yes / No

Speaking / Non Speaking order

Note: Issue order copy on 02.11.2022.

To

- 1.The II Additional District and Sessions Judge,
Thiruvallur, Poonamalle.
- 2.The Judicial Magistrate No.II,
Poonamalle.



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G.K.ILANTHIRAIYAN, J.
ata

CRL.R.C.Nos.864, 867 & 1026 of 2019

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