



Crl.R.C.No.1123 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

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

Crl.RC.No.1123 of 2019

K.Anbuselvam

... Petitioner

Vs.

K.Murugan

... Respondent

PRAYER:

Criminal Revision filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and to set aside the judgment dated 24.09.2019 passed in CA.No.29 of 2019 on the file of the learned III Additional Sessions Judge, Villupuram, Kallakurichi by confirming the judgment dated 19.03.2019 passed in CC.No.11 of 2018 by the learned Judicial Magistrate(Fast Track), Kallakurichi.

For Petitioner : M/s.R.Amsalekha

For Respondent : Mr.K.A.Ramakrishnan

ORDER

This criminal revision has been filed to set aside the judgment dated 24.09.2019 passed in CA.No.29 of 2019 on the file of the



CrI.R.C.No.1123 of 2019

learned III Additional Sessions Judge, Villupuram, Kallakurichi confirming the judgment dated 19.03.2019 passed in CC.No.11 of 2018 by the learned Judicial Magistrate(Fast Track), Kallakurichi.

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. On receipt of Rs.5,50,000/- as full and final settlement, they also entered into a joint compromise memo dated 02.12.2022 and the relevant portion of the same is extracted hereunder:

3. The petitioner and respondent are amicably settled their dispute out of court and amicably compromised. The respondent / complainant agreed to receive the amount of Rs.5,50,000/- from the revision petitioner / accused for full and final settlement and withdraw his complaint and compound the case. Therefore totally Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only) agreed to receive by the respondent / complainant for executing this joint compromise memo.



4. *The respondent filed 138 NI Act private criminal complaint against the petitioner before the learned Judicial Magistrate (Fast Track), Kallakurichi in CC.No.11 of 2018, the Trial court passed conviction order against the revision petitioner. After that the revision petitioner filed appeal before the learned III Additional Sessions Judge at Kallakurichi in Crl.A.No.29 of 2019. After that the Criminal appeal also dismissed. After that the petitioner filed the above revision petition before this Court in Crl.RC.No.1123 of 2019. The petitioner already deposited 50% of cheque amount of Rs.3,00,000/- in CC.No.11 of 2018 before the learned Judicial Magistrate (Fast Track), Kallakurichi. The Revision petitioner gives no objection to withdraw the amount of Rs.3,00,000/- by the respondent / complainant from the learned Judicial Magistrate in Kallakurichi in CC.No.11 of 2018. The balance amount of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) received by the respondent / complainant on today 02.12.2022 for full and final settlement.*

5. *The petitioner and respondent are jointly compromise their dispute and settled the matter out of court. The respondent also ready to withdraw the amount of Rs.3,00,000/- in CC.No.11 of 2018. The Balance amount of Rs.2,50,000/- received by the respondent from the petitioner / accused by way of cash*



on 02.12.2022. Therefore totally Rs.5,50,000/- received by the respondent from the petitioner for full and final settlement.

6. The respondent is given full consent for compound the offence and set aside the sentence and judgment of CC.No.11 of 2018 passed by the learned Judicial Magistrate (Fast Track) Kallakurichi and Crl.A.No.29 of 2019 passed by the learned III Additional Sessions Judge at Kallakurichi as against the revision petitioner.

7. The revision petitioner and respondent are jointly executed this joint compromise memo on this 2nd day of December 2022 in the presence of both side counsel. Further this Joint Compromise Memo executed by the petitioner and respondent with free consent and not coercion, or threat or force. Both the petitioner and respondent are jointly compromise their dispute out of court.

4. Today, both the parties are also present before this Court and the respondent has no objection to set aside the conviction in view of compromise entered between them.

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 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.

6. In view of the aforesaid, the judgment dated 24.09.2019 passed in CA.No.29 of 2019 on the file of the learned III Additional Sessions



Crl.R.C.No.1123 of 2019

Judge, Villupuram, Kallakurichi and the judgment dated 19.03.2019

passed in CC.No.11 of 2018 by the learned Judicial Magistrate(Fast Track), Kallakurichi. are set aside. The above joint compromise memo dated 02.12.2022 shall form part and parcel of this order. Whatever the amount deposited by the petitioner to the credit of the trial court in CC.No.11 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court, Kallakurichi, the respondent is permitted to withdraw the same by way of filing an application. It is made clear that the trial court is directed to permit the respondent to withdraw the said amount without ordering any notice to the petitioner.

7. Accordingly, this Criminal Revision is allowed.

02.12.2022

Index : Yes/No
Internet : Yes
lok



WEB COPY



Crl.R.C.No.1123 of 2019



WEB COPY



Crl.R.C.No.1123 of 2019

G.K.ILANTHIRAIYAN, J.

lok

To

- 1.The learned III Additional Sessions Judge,
Villupuram, Kallakurichi
- 2.The learned Judicial Magistrate(Fast Track),
Kallakurichi.

Crl.RC.No.1123 of 2019

02.12.2022