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Crl.R.C.Nos.1232 and 1233 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

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

Crl.RC.Nos.1232 and 1233 of 2019

Crl.O.P.No.1232 of 2019:-

V.Jeyanthi

... Petitioner

Vs.

Mohanasundaram

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the order of conviction order dated 07.08.2019 in C.A.No.311 of 2018 by the XVI Additional City Civil Court by confirming the order dated 08.05.2018 passed in C.C.No.2508 of 2012 by the learned Metropolitan Magistrate Fast Track Court – 1 Egmore at Allikulam, Chennai 3 and acquit the appellants by allowing the Criminal Revision.

For Petitioner : Mr.A.Balasingh Ramanujam

For Respondent : Mr.A.Kumaraguru



Crl.R.C.Nos.1232 and 1233 of 2019

Crl.O.P.No.1233 of 2019:-

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1. B.Sivakumar

2. M/s Penta Cut Tools,
Flat J, 3rd Floor,
Park Royal Apartments,
No.58, Park Road,
Anna Nagar, (W) Extn,
Chennai 600 101.

3. V.Jeyanthi
Partner
M/s Penta Cut Tools,
Flat J, 3rd Floor,
Park Royal Apartments,
No.58, Park Road,
Anna Nagar, (W) Extn,
Chennai 600 101.

... Petitioners

Vs.

B.Vivekanandan

...Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the order of conviction order dated 07.08.2019 in C.A.No.310 of 2018 by the XVI Additional City Civil Court by confirming the order dated 08.05.2018 passed in C.C.No.3235 of 2012 by the learned Metropolitan Magistrate Fast Track Court – 1 Egmore at Allikulam, Chennai 3 and acquit the petitioners by allowing the Criminal Revision Petition.

For Petitioners	: Mr.A.Balasingh Ramanujam
For Respondent	: Mr.A.Kumaraguru



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COMMON ORDER

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These Criminal Revisions have been filed to set aside the order of conviction order dated 07.08.2019 in C.A.No.311 of 2018 by the XVI Additional City Civil Court, Chennai, by confirming the order dated 08.05.2018 passed in C.C.No.2508 of 2012 by the learned Metropolitan Magistrate Fast Track Court – 1 Egmore at Allikulam, Chennai 3 and to set aside the order of conviction order dated 07.08.2019 in C.A.No.310 of 2018 by the XVI Additional City Civil Court, Chennai, by confirming the order dated 08.05.2018 passed in C.C.No.3235 of 2012 by the learned Metropolitan Magistrate Fast Track Court – 1 Egmore at Allikulam, Chennai 3.

2. The learned counsel appearing for the petitioners would submit that pending the revisions, the parties have entered into compromise by amicable settlement and also filed a joint memo of compromise stating that 50% of the compensation amount has been paid to the respondents.

3. The learned counsel appearing for the respondents also confirmed the same and submitted that the respondents have no objection to set aside the conviction against the petitioners herein, since the



respondents received 50% of the awarded amount.

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4. The parties were present before this Court.

5. The Joint memo of Compromise dated 28.09.2022, filed in Crl.R.C.No.1232 of 2019, is extracted hereunder,

“ 1. The respondent agreed to settle the matter by receiving the value of the Cheque amount of Rs.1,50,000/- in the C.C.No.2508 of 2012 from the petitioner and the petitioner also agreed and accepted for the same.

2. In compliance with the above compromise memo today 26.09.2022 the petitioner paid a sum of Rs.75,000/- to the respondent by way of Demand Draft in favour of the respondent vide D.D.No.437245 drawn on 28.09.2022 and the respondent received and acknowledged the same at the time of signing this memo of compromise.

3. The petitioner further submit that at the time of admission of the Criminal Revision, this Hon'ble Court directed the petitioner to pay a sum of Rs.75,000/- being 50% of the Cheque amount for the suspending the sentence imposed by the Trial Court and confirmed by the Appellate court and the amount has been deposited to the Credit of the C.C.No.2508 of 2012 vide D.D.No.836522 dated 30.01.2020 drawn on City Union Bank, Anna Nagar Branch, Chennai by the petitioner and the petitioner is agreed to give no objection to the respondent when he is filing the payment out petition before the Trial Court.

4. The petitioner and respondent is agreed to file the compounding petition before this Hon'ble Court to compound the offence under Section 147 of N.I.Act and this petition is also a part and parcel of this compromise memo entered between the petitioner and the respondent.”

6. The Joint memo of Compromise dated 28.09.2022, filed in



Crl.R.C.No.1233 of 2019, is extracted hereunder,

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“ 1. The respondent agreed to settle the matter by receiving the value of the Cheque amount of Rs.2,15,000/- in the C.C.No.3235 of 2012 from the petitioners and the petitioner also agreed and accepted for the same.

2. In compliance with the above compromise memo today 26.09.2022 the petitioner paid a sum of Rs.1,07,500/- to the respondent by way of Demand Draft in favour of the respondent vide D.D.No.437244 drawn on City Union Bank, Anna Nagar Branch, 28.09.2022 and the respondent received and acknowledged the same at the time of signing this memo of compromise.

3. The petitioner further submit that at the time of admission of the Criminal Revision, this Hon'ble Court directed the petitioner to pay a sum of Rs.1,07,500/- being 50% of the Cheque amount for the suspending the sentence imposed by the Trial Court and confirmed by the Appellate Court and the amount has been deposited to the Credit of the C.C.No.3235 of 2012 and the petitioner is agreed to give no objection to the respondent when he is filing the payment out petition before the Trial Court to withdraw the amount.

4. The petitioner and respondent is agreed to file the compounding petition before this Hon'ble Court to compound the offence under Section 147 of N.I.Act and this petition is also a part and parcel of this compromise memo entered between the petitioner and the respondent.”

7. 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



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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 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.

8. In view of the aforesaid, the order of conviction dated 07.08.2019 in C.A.No.311 of 2018 passed by the XVI Additional City Civil Court by confirming the order dated 08.05.2018 passed in C.C.No.2508 of 2012 by the learned Metropolitan Magistrate Fast Track Court – 1 Egmore at Allikulam, Chennai 3 and the order of conviction dated 07.08.2019 in C.A.No.310 of 2018 passed by the XVI Additional City Civil Court by confirming the order dated 08.05.2018 passed in



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C.C.No.3235 of 2012 by the learned Metropolitan Magistrate Fast Track

Court – 1 Egmore at Allikulam, Chennai 3, are hereby set aside.

9. Accordingly, these Criminal Revision Cases are allowed.

29.09.2022

Index : Yes/No
Internet : Yes
mn

To

- 1.The XVI Additional City Civil Court, Chennai.
- 2.The Metropolitan Magistrate Fast Track Court – 1 Egmore at Allikulam, Chennai 3.



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G.K.ILANTHIRAIYAN, J.
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