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Crl.R.C.Nos.1136 & 1138 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

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

Crl.R.C.Nos.1136 & 1138 of 2018

A.Henry Raj Petitioner in both Crl.R.Cs

Vs

M/s.Dugar Housing Development India Ltd.,
Represented by Mr.R.Sivakumar Respondent in both Crl.R.Cs

Common Prayer: Criminal Revision cases filed under Section 397 r/w Section 401 of Code of Criminal Procedure, to call for the records and judgment in C.A.Nos.44 & 45 of 2018 dated 26.06.2018 passed by the learned XV Additional Sessions Judge, Chennai, dismissing the appeal and confirming the judgment and sentence passed in C.C.Nos.13566 & 13567 of 2002 dated 02.01.2018 passed by the learned Metropolitan Magistrate Fast Track Court-2, Egmore, Chennai-600 008 and set aside the same.

For Petitioner in both Crl.R.Cs : Mr.Rajasekar L.

For Respondent in both Crl.R.Cs : Mr.W.Camyles Gandhi

COMMON ORDER

These Criminal Revision Cases have been filed to set aside the judgment dated 26.06.2018 passed in C.A.Nos.44 & 45 of 2018 by the



CrI.R.C.Nos.1136 & 1138 of 2018

learned XV Additional Sessions Judge, Chennai, thereby confirming the judgment dated 02.01.2018 passed in C.C.Nos.13566 & 13567 of 2002 by the learned Metropolitan Magistrate, Fast Track Court-2, Egmore, Chennai-600 008, thereby convicted the petitioner for the offence punishable under Section 138 of Negotiable Instrument Act.

2. The learned counsel appearing for the petitioner would submit that pending revision, the petitioner and the respondent have amicably settled the issues and the petitioner had settled the entire cheque amount to the respondent.

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



Crl.R.C.Nos.1136 & 1138 of 2018

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.

5. In view of the above, the judgment dated 26.06.2018 passed in C.A.Nos.44 & 45 of 2018 by the learned XV Additional Sessions Judge, Chennai and the judgment dated 02.01.2018 passed in C.C.Nos.13566 &



Crl.R.C.Nos.1136 & 1138 of 2018

13567 of 2002 by the learned Metropolitan Magistrate, Fast Track Court-2, Egmore, Chennai-600 008, are hereby set aside. The respondent is directed to withdraw the amount, which was already deposited before the Trial Court, by filing an appropriate application. It is made clear that the Trial Court shall permit the respondent to withdraw the amount, without ordering notice to the petitioner herein.

6. Accordingly, these Criminal Revision Cases stand allowed.

27.10.2022

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

1. The XV Additional Sessions Judge, Chennai.
2. The Metropolitan Magistrate Fast Track Court-2, Egmore, Chennai-600 008



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Crl.R.C.Nos.1136 & 1138 of 2018

G.K.ILANTHIRAIYAN. J,

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