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Crl.R.C.No.1166 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

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

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M/s.Vivians,
Rep. by its Proprietor Vijayalakshmisubburaj,
2/650, Visved River View Enclave,
3rd Main Road,
Manapakkam,
Chennai – 600 125.

... Petitioner

Vs.

Suresh Ramalingam,
Proprietor of Varun Ceramics and Sanitary,
131/6, Jawaharlal Nehru Road,
Senthil Nagar,
Arumbakkam,
Chennai – 600 026.

... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to call for the records of the case in Crl.A.No.41 of 2016 of the Court of the Principal Sessions Judge, Kancheepuram, Chegalpattu, and of C.C.No.190 of 2014 on the file of the Judicial Magistrate, Fast Track Court, Alandur, examine the legality, the propriety and correctness of the proceedings before the lower Courts and also of the findings contained in the two judgments and set aside the order of the learned Sessions Judge, confirming the judgment and order passed by the trial Court namely the Judicial Magistrate, Fast Track



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Court, Alandur Magistrate in C.C.No.190 of 2014 on 07.01.2016 and direct the acquittal of the petitioner of the charges levelled against him in the interest of justice and equity.

For Petitioner : Mr.D.Chandrasekar

For Respondent : Mr.P.Dinesh Kumar

ORDER

This Criminal Revision case has been filed to set aside the judgment passed in Crl.A.No.41 of 2016 on the file of the Principal Sessions Judge, Kancheepuram, Chegalpattu, and of C.C.No.190 of 2014 on the file of the Judicial Magistrate, Fast Track Court, Alandur, examine the legality, the propriety and correctness of the proceedings before the lower Courts and also of the findings contained in the two judgments and set aside the order of the learned Sessions Judge, confirming the judgment and order passed by the trial Court namely the Judicial Magistrate, Fast Track Court, Alandur Magistrate in C.C.No.190 of 2014 on 07.01.2016 and direct the acquittal of the petitioner of the charges levelled against him in the interest of justice and equity.

2. The learned counsel for the petitioner submitted that while pending this revision, the petitioner and the respondent have amicably settled the issue



arising out of the conviction for the offence under Section 138 of Negotiable Instruments Act, and the petitioner had settled the entire 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. 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



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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



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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



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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 passed by the learned Principal Sessions Judge, Kancheepuram, Chengalpattu, in C.A.No.41 of 2016 dated 13.06.2018 thereby confirming the judgment passed in C.C.No.190 of 2014 on the file of the Judicial Magistrate, Fast Track Court, Alandur, is hereby set aside.

6. Accordingly, this Criminal Revision case stands allowed. The respondent is permitted to withdraw the amount which is already deposited by the petitioner before the trial court, by way of filing appropriate application. It is made clear that the trial Court is directed to disburse the amount in favour of the respondent without ordering notice to the petitioner.

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Index: Yes/No
Speaking/Non speaking order
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To

- 1.The Principal Sessions Judge,
Kancheepuram, Chengalpattu.
- 2.The Judicial Magistrate, Fast Track Court,
Alandur.



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G.K.ILANTHIRAIYAN. J.

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