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Crl.R.C.No.1299 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

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

Crl.R.C.No.1299 of 2018

Chandra Mohan

... Petitioner

Vs.

The State Rep. by
The Sub Inspector of Police,
K-6, T.P.Chatram Police Station,
Chennai – 600010.

... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to call for the records in Crl.A.No.312 of 2017 on the file of the VII Additional Sessions Court, Chennai, confirmed the order in C.C.No.8061 of 2014 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, be set aside the order dated 12.09.2018 in Crl.A.No.312 of 2017.

For Petitioner : Mr.R.Vevekananthan

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

ORDER

This Criminal Revision case has been filed as against the judgment passed in Crl.A.No.312 of 2017 dated 12.09.2018 on the file of the VII



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Additional Sessions Court, Chennai, thereby confirming the judgment passed in C.C.No.8061 of 2014 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, thereby convicted the petitioner for the offence under Section 326 IPC

2. The learned counsel appearing for the petitioner would submit that pending the revision, the petitioner and the respondent have settled their issues amicably, to that effect they have also filed separate affidavits before this Court.

3. The affidavit filed by the victim/defacto complainant, who is present before this Court is extracted hereunder;-

"I, Murugesan, son of P.T.Gopal, Hindu, aged about 75 years, residing at No.131, K.V.N.Puram, 2nd Street, Kilpauk, Chennai – 600 010 and I do hereby solemnly affirm and sincerely state as follows;-

1. I humbly state that I am the Defacto complainant (P.W.1) herein and as such I am well acquainted with the facts and circumstances of the case in Crl.R.C.No. 1299/2018 pending on the file of this Hon'ble Court.

2. I state that presently the Criminal Revision



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Petition was filed by the Petitioner as against the Judgment passed in Crl.A.No. 312/2017 by the Learned VII Additional Sessions Court, Chennai.

3. I state that I am filing this affidavit voluntarily to put forth the truth before this Hon'ble Court with regard to the above said case and also I am willing to compound the case in C.C.No. 8061/2014 as against which an Criminal Appeal was preferred by the Petitioner and the same was dismissed by confirming the sentence passed by the Trial Court, challenging the same, the present Criminal Revision Petition is pending before this Hon'ble Court.

4. I state that originally the Petitioner is my sister's son who happens to be my son-in-law. I further state that over a period of time, with regard to our Ancestral Property, a dispute occurred between us which is civil in nature. I further state that with regard to the said dispute, an incident occurred which led to verbal spat and infliction of blows upon me and my wife by the Petitioner. I further state that over the same, I had lodged a complaint against the Petitioner and on receipt of the same, a Crime No.646/2013 was registered by the respondent police for the offences under section 341, 326 and 506(1) of IPC against the Petitioner.

5. I further state that after completion of



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investigation in Crime No. 646/2013, the respondent police had filed a Final Report under section 173(2) Cr.P.C before the Trial Court against the Petitioner for the offences under section 341, 326(2), 506(1) of IPC.

6. I further state that after concluding the Trial, the Jurisdictional Court had found the Petitioner guilty under section 326 IPC to undergo a simple imprisonment for a period of 6 months and also directed to pay a fine of Rs.2,000/- for each count. I further state that subsequently I had reliably learnt that challenging the said Order, the Petitioner had preferred the Criminal Appeal in Crl.A.No. 312/2017 before the Learned Sessions Court and the same was dismissed by confirming the said Order.

7. I further state that in the year 2018, aggrieved over the Appellate Court Judgment, the Petitioner had Preferred this Criminal Revision Petition pending before this Hon'ble Court and during the pendency of the Revision Petition, the issue was resolved between us and pending criminal litigation would affect our family relationships. I further state that in the year of 2018, my wife named Varalakshmi (P.W.2) was died and she is no more.

8. I humbly state that presently a carnal acquaintance had developed between both families and



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no quarrel would arise between us at a later stage. Hence I had agreed to withdraw the complaint lodged against the Petitioner in Crime No. 646/2013.

9. I humbly state that I had come forward to withdraw the case in C.C.No. 8061/2014 pending on the file of Learned V Metropolitan Magistrate, Egmore, Chennai, pendency of the above said criminal case would affect our family members and life interest.

10. I humbly state that over the years, there was no dispute or wordily altercations had occurred between us. Hence by allowing this Petition no prejudice would be caused to our family members. I further state that with due respect to the compromise arrived between ourselves, we undertake that no prejudice would be caused to the respective family members as well as the society in quashing the offences in C.C.No. 8061/2014 pending on the file of Learned V Metropolitan Magistrate, Egmore, Chennai.

11. I state that therefore it is just and necessary in the interest of Justice to permit the Petitioner and the Defacto-complainant/P.W.1 to compromise and compound the offences in C.C.No. 8061/2014 pending on the file of Learned V



Metropolitan Magistrate, Egmore, Chennai by way of allowing the Petition filed under section 482 r/w 320 of Cr.P.C. and I have no objection to Quash the above said case as against the Petitioner.

12. I humbly state that all the parties to the proceedings had duly affixed their signatures in due compliance to the compromise entered with the Defacto-complainant in this petition.

13. I further state that while being so, this Hon'ble Court may be pleased to permit me to file my affidavit as to compound the proceedings in Crl.R.C.NO. 1299/2018.

14. I state that I have no objection to compound the offences since the issues prevailed between us had been resolved.

In these circumstances, it is prayed that this Hon'ble Court may be pleased to accept my Affidavit and treat this Petition as part and parcel of the Crl.R.C.No. 1299/2018 and set aside the Conviction passed by the Order dated 12.09.2018 in Crl.A.No. 312/2017 on the file of the Learned VII Additional Sessions Court, Chennai confirming the Order dated 19.09.2017 in C.C.No. 8061/2014 pending on the file of



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*Learned V Metropolitan Magistrate, Egmore, Chennai
and thus render justice."*

4. PW1, who is also present before this Court and stated that they have already settled their issues since they are the close relatives.

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



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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



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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.



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6. In view of the aforesaid, the judgment dated 12.09.2018 passed in Crl.A.No.312 of 2017 on the file of the VII Additional Sessions Court, Chennai, thereby confirming the judgment passed in C.C.No.8061 of 2014 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, are hereby set aside.

7. Accordingly, this Criminal Revision case stands allowed.

07.11.2022

Index: Yes/No
Speaking/Non speaking order
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To

1. The VII Additional Sessions Court,
Chennai.
2. The V Metropolitan Magistrate,
Egmore, Chennai.
3. The Sub Inspector of Police,
K-6, T.P.Chatram Police Station,
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G.K.ILANTHIRAIYAN. J.

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