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Crl.R.C.Nos.1334 & 1348 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

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

Crl.R.C.Nos.1334 & 1348 of 2018

and

Crl.M.P.Nos. 15669, 15671, 15672, 15728, 15730 & 15732 of 2018

Champalal Petitioner in both Crl.R.Cs

Vs

Vijay Raj Purchit (HUF)
rep. by its Power Agent,
Gunman Singh

.... 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 relating to the judgment dated 18.09.2018 in C.A.Nos.324 & 325 of 2017 of the learned VII Additional Sessions Judge Court, Chennai, confirming the judgment dated 05.10.2017 in C.C.No.1754 & 1782 of 2015 on the file of the Fast Track Court – IV, Metropolitan Magistrate Court, George Town, Chennai, set aside the same and allow the criminal revision case.

For Petitioner in both Crl.R.Cs : Mr.T.M.Ramalingam

For Respondent in both Crl.R.Cs : Mr.S.T.Raja

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



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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 revisions, the matter has been referred to mediation centre for amicable settlement. In the mediation, the parties have amicably settled the issue and entered into a joint memo of compromise.

3. A Joint memo of Compromise is extracted hereunder,

“1. It is submitted that respondent filed private complaint in C.C.No.1754 of 2015 on the files of the FTC-IV, Chennai in respect of dishonour of Revision Petitioner's cheque. The said complaint was allowed and Revision Petition was convicted for the offence under Section 138 NI Act for 6 months and to pay a cheque amount vide Judgment dated 5.10.2017 on the files of FTC-IV, Chennai.

2. It is further submitted against the Judgment passed by learned FTC-IV, Chennai filed Appeal against



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the above Judgment before Principal District and Sessions Judge, Chennai in C.A.No.324 of 2017 however, learned District and Session Judge, Chennai was pleased confirm the Judgment passed by learned FTC-IV, Chennai vide his Judgment dated 18.09.2018.

3. It is submitted that against which Revision Petition filed present Revision and during pendency of the same both parties arrived to an amicable settlement and thereby Revision Petition has settled sum to the respondent.

4. In response to payments made by the Revision Petitioner to the Respondent, he is willing to compound the offence under Section 138 of Negotiable Instrument Act read with 147 of NI Act and also with draw connected cases pending between the parties.”

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



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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



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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 18.09.2018 in C.A.Nos.324 & 325 of 2017 of the VII Additional Sessions Judge Court, Chennai, confirming the judgment dated 05.10.2017 in C.C.No.1754 & 1782 of 2015 on the file of the Fast Track Court – IV, Metropolitan Magistrate Court, George Town, Chennai, are hereby set aside. The respondent is permitted to withdraw the amount, which was already



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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.

Consequently, connected miscellaneous petitions are closed.

18.10.2022

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

1. The VII Additional Sessions Judge, Chennai.
2. The Metropolitan Magistrate Fast Track Court - IV
George Town, Chennai.



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G.K.ILANTHIRAIYAN. J.

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