



Crl.A.No.797 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

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

Crl.A.No.797 of 2018

Karuppasamy

... Appellant

Vs.

The State Represnted by
The Inspector of Police,
All Women Police Station,
Dharmapuri.
(Crime No.9 of 2016)

... Respondent

Prayer:Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, to set aside the order of conviction and consequential sentences passed in a Judgment dated 28.11.2018 made in Special S.C.No.13 of 2017 on the file of the Fast Track Mahila Court, Dharmapuri and allow the above Criminal Appeal.

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



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JUDGMENT

This Criminal Appeal has been filed as against the Judgment passed in Special S.C.No.13 of 2017 dated 28.11.2018, on the file of the Fast Track Mahila Court, Dharmapuri, thereby convicted the appellant for the offences punishable under Sections 7 r/w 8 of POCSO Act, 2012 and sentenced him to undergo three years rigorous imprisonment with a fine of Rs.5000/-, in default to undergo six months simple imprisonment.

2. The case of the prosecution is that on 23.08.2016, the accused had committed penetrative sexual assault on the minor victim girl. Hence, the complaint.

3. On receipt of the complaint, the respondent registered an FIR in Crime No.09 of 2016. After completion of investigation, the respondent filed a final report and the same has been taken cognizance in Special S.C.No.13 of 2017, on the file of the Fast Track Mahila Court, Dharmapuri for the offences punishable under Sections 341, 506(i) of IPC and Sections 7 r/w 8 of POCSO Act, 2012.



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4. On the side of the prosecution, they examined P.W.1 to P.W.9 and marked Exs.P1 to P13. On the side of the accused, no one was examined and no document was marked. On a perusal of oral and documentary evidence, the Trial court found the petitioner guilty for the offences punishable under Sections 7 r/w 8 of POCSO Act, 2012 and sentenced him to undergo three years rigorous imprisonment with a fine of Rs.5000/-, in default to undergo six months simple imprisonment.

5. Pending the appeal, the petitioner and the victim got married and living together. They are also living happily and gave birth to two children. Today, both the appellant as well as the victim along with their two children appeared before this Court. The victim also deposed that she is living with the appellant happily and she has no objection to set aside the conviction imposed by the Trial court.

6. Now, the parties have entered into compromise, since they already had love affair with each other and due to their parents' interruption, they could not able to marry each other and the case has been foisted as against the appellant.



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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;



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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 un-



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effected 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 fact, the appellant and the victim filed a Joint Memo of Compromise, dated 04.11.2022, which is extracted hereunder,

“1. The appellant states that the respondent police have registered the case against the appellant based on the complaint lodged by PW1 on the allegation of sexual harassment and the case was registered in Crime No.9 of 2016 by the respondent Police for the offences 341 and 506(ii) of IPC read with Section 7 and 8 of Protection of Children from Sexual Offences Act, 2012.

2. The appellant and PW1 submit that upon completion of the investigation the respondent Police filed positive final report against the appellant and taken cognizance in Special S.C.No.13 of 2017 by the Fast Track Mahila Court, Dharmapuri.

3. The appellant and PW1 submits that the Learned Trial Judge taken the cognizance of the case and upon completion of the Trial, convicted the appellant for the offence punishable under Section 7 read with Section 8 of POCSO Act and imposed a sentence of three years rigorous imprisonment with a fine of Rs.5000/-, in default six months simple imprisonment no separate punishment was awarded for the offence punishable under Section 341 and 506(i) of IPC by a Judgement dated 28.11.2018. Aggrieved by the same, the appellant herein preferred the present appeal.

4. The appellant and PW1 state that during pendency of the above appeal, considering the betterment of life and their future, the appellant and PW1 got married on 18.03.2019. Due to wedlock, they both were blessed with two children namely Nivitha Sri born on 16.03.2020 and Hesika Sri on 21.09.2022. Both are leading their matrimonial life peacefully at the matrimonial home along



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with the parents of the appellant. In view of this subsequent development, the PW1 is ready and willing to compromise this case and she is not interested in pursuing this case further as it would serve no purpose. Moreover, the life of PW1 would also get ruined if the above appeal is proceeded further. Accordingly, the appellant and the PW1 have decided to quit the above criminal case jointly”.

9. In view of the above, the Judgment passed in Special S.C.No.13 of 2017 dated 28.11.2018, on the file of Fast Track Mahila Court, Dharmapuri, is hereby set aside. The Joint memo of Compromise, dated 04.11.2022 shall form part and parcel of this order.

10. Accordingly, this Criminal Appeal stands allowed.

04.11.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

- 1.The Fast Track Mahila Court, Dharmapuri.
- 2.The Inspector of Police,
All Women Police Station,
Dharmapuri.
3. The Public Prosecutor,
High Court, Madras.

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