



CRL.R.C.No.1447 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM

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

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M.Vinodth Kumar

... Petitioner

Vs.

M.Udhayakumar

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to call for the records and set aside the order dated 08.11.2018 made in C.A.No.238 of 2018 on the file of II Additional District and Sessions Judge, Erode by confirmed the order of conviction dated 02.05.2018 made in S.T.C.No.212 of 2016 on the file of the Judicial Magistrate, FTC No.II, Erode by allowing this Criminal Revision and acquit the petitioner.

For Petitioner : Mr.S.Lakshmanasamy

For Respondent : Mr.M.Guruprasad

ORDER

This Criminal Revision case has been filed to set aside the order dated 08.11.2018 made in C.A.No.238 of 2018 on the file of II Additional



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District and Sessions Judge, Erode, thereby confirming the order of conviction dated 02.05.2018 made in S.T.C.No.212 of 2016 on the file of the Judicial Magistrate, FTC No.II, Erode.

2. The learned counsel appearing for the petitioner would submit that pending the revision, the matter has been settled between the petitioner and the respondent. They also entered into memorandum of compromise and the Joint Memo of Compromise, dated 18.10.2022 has been produced before this Court.

3. The parties were also present before this Court and deposed that they had settled the matter as per the Joint memo of compromise.

4. The Joint memo of Compromise dated 18.10.2022, is extracted hereunder,

“ a. The respondent/complainant agreed to receive a sum of Rs.8,50,000 (Eight Lakhs Fifty Thousand Rupees) as full and final settlement, for which a sum of Rs.3,50,000/- (Three Lakhs Fifty Thousand Rupees) already paid by the petitioner/accused to the respondent/complainant. The petitioner/accused already deposited a sum of Rs.5,00,000 (Rupees Five Lakhs) before the Learned Judicial Magistrate FTC No.II, Erode in S.T.C.No.212



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of 2016. The petitioner/accused has no objection to disburse that amount to the respondent/complainant.

b. The respondent/complainant herein has to appear before this Hon'ble Court and to inform the court as no objection to acquit the petitioner/accused from all the charges levelled against him in S.T.C.No.212 of 2016 on the file of the Learned Judicial Magistrate FTC No.II, Erode.”

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 sub-lime 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 sum-up 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.*



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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



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peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will 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.

6. In view of the above, the order dated 08.11.2018 made in C.A.No.238 of 2018 on the file of II Additional District and Sessions Judge, Erode confirming the order of conviction dated 02.05.2018 made in S.T.C.No.212 of 2016 on the file of the Judicial Magistrate, FTC No.II, Erode, are hereby set-aside and the terms of Joint Memo of Compromise, dated 18.10.2022, shall form part and parcel of this Order.

7. The amount which was deposited by the petitioner to the credit of S.T.C.No.212 of 2016 on the file of the Judicial Magistrate, FTC No.II, Erode is hereby permitted to withdraw by the respondent by filing appropriate application. It is also made clear that the Trial Court without ordering any notice to the petitioner shall permit the respondent to



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withdraw the same.

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8. Accordingly, this Criminal Revision case stands allowed.

18.10.2022

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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G.K.ILANTHIRAIYAN, J

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To

1. The II Additional District and Sessions Judge, Erode.
2. The Judicial Magistrate, FTC No.II, Erode.

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18.10.2022