



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2022

CORAM:

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.R.C. (MD)No.153 of 2022

K.P.Rajarathinam

... Petitioner/Appellant/
Accused

Vs.

Rajendran

... Respondent/Respondent/
Complainant

Prayer : This Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to judgment of conviction and sentence imposed in C.A.No.10 of 2021 dated 29.10.2021 passed by the Principal District Court, Ramanathapuram, confirming the judgement or conviction and sentence passed in STC No.2960 of 2011, dated 15.03.2021 on the file of the Judicial Magistrate Court, Paramakudi and set aside the same.

For Petitioner : Mr.K.Samudurai

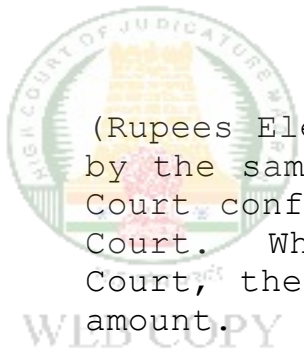
For Respondent : Mr.R.Venkatesan

for M/s.Right Law Associates

O R D E R

This Criminal Revision Case has been filed to set aside the conviction and sentence passed in STC No.2960 of 2011, dated 15.03.2021 on the file of the Judicial Magistrate Court, Paramakudi.

2. The respondent lodged a complaint for the offence under Section 138 of the Negotiable Instruments Act as against the petitioner and the same has been taken cognizance in S.T.C.No.2960 of 2011 on the file of the Judicial Magistrate, Paramakudi. The trial Court convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of two years. The trial Court also awarded the compensation of Rs.11,00,000/-



(Rupees Eleven Lakhs only) as double the cheque amount. Aggrieved by the same, the petitioner preferred an appeal and the appellate Court confirmed the conviction and sentence imposed by the trial Court. While suspending the sentence before the first appellate Court, the petitioner was directed to deposit 50 % of the cheque amount.

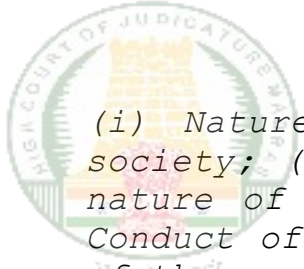
3. Accordingly, the petitioner duly complied with the said condition by depositing Rs.2,75,000/- (Rupees Two Lakhs and Seventy Five Thousand only) as 50% of the cheque amount before the trial Court to the credit of S.T.C.No.2960 of 2011 on the file of the trial Court. Pending this revision, the remaining cheque amount of Rs.2,75,000/- (Rupees Two Lakhs and Seventy Five Thousand only) will also be directly paid by the petitioner to the respondent by way of Demand Draft, dated 22.03.2022.

4. The learned counsel for the respondent also admitted the said fact and he has no objection to set aside the conviction imposed on the petitioner.

5. 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 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 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.

6. In view of the above, the judgment of conviction and sentence imposed in C.A.No.10 of 2021, dated 29.10.2021 passed by the Principal District Court, Ramanathapuram, in confirming the judgment the conviction and sentence passed in STC No.2960 of 2011, dated 15.03.2021 on the file of the Judicial Magistrate Court, Paramakudi, are set aside. The respondent is permitted to withdraw the amount, which was already deposited by the petitioner to the credit of S.T.C.No.2960 of 2011. The trial Court is directed to disburse the amount to the respondent forthwith after verifying the identity.



7. Accordingly, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar(AE)

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/ /2022

Sub Assistant Registrar(CS)

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To:-

1. THE PRINCIPAL DISTRICT COURT,
RAMANATHAPURAM.
2. THE JUDICIAL MAGISTRATE COURT,
PARAMAKUDI
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.K. SAMIDURAI, Advocate
(SR-18092[F] dated 12/04/2022)

+1 CC to M/s.RIGHT LAW ASSOCIATES, Advocate
(SR-18740[F] dated 13/04/2022)

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SP/29/04/2022/4P/6C