



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. (MD)No.3609 of 2022

WEB COPY

1.Silva
2.Rajamani ... Petitioners/Accused Nos.1 and 3

Vs

1.The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District. ... Respondent No.1/Complainant

2.Muthukani ...Respondent No.2/ Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to record the compromise memo reached between the petitioners and the de facto complainant and to acquit the petitioners from the conviction imposed on the petitioner in S.C.No.319 of 2015 dated 16.12.2015 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi and modified by this Court in Crl.A.(MD).No.19 of 2016 dated 23.08.2021 and sentenced to undergo for three months imprisonment under Section 323 of I.P.C. in Crime No.189 of 2014 on the file of the first respondent.

For Petitioners : Mr.V.Rajiv Rufus

For R-1 : Mr,R.M.Anbunithi
Additional Public Prosecutor

For R-2 : Mr.M.Suriya Bahavandoss

O R D E R

The Criminal Original Petition has been filed to record the compromise entered between the petitioners and the defacto complainant and to acquit them from conviction imposed in S.C.No.319 of 2015 dated 16.12.2015 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court) and modified by this Court in Crl.A.(MD).No.19 of 2016 dated 23.08.2021 and thereby, sentenced the petitioners to undergo three months imprisonment under Section 323 I.P.C.

2. The learned counsel appearing for the petitioners would submit that after confirming the conviction by the Court below and

<https://hcservices.ecourts.gov.in/hcservices/>



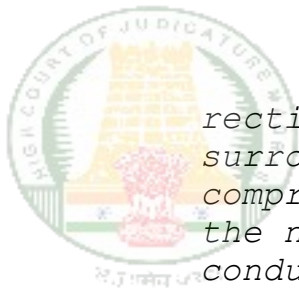
after modification of the sentence by this Court in CrI.A.(MD).No.19 of 2016 dated 23.08.2021, the petitioners and the second respondent, namely, the defacto complainant had compromised the issue and filed this petition to set aside the conviction.

3. The second respondent / defacto complainant filed an affidavit along with the joint compromise memo, which would reveal that the second respondent does not want to pursue his complaint and she has no objection for acquitting the petitioners and she gave his consent to close the case without any coercion as compromise entered between the parties.

4. The Hon'ble Supreme Court of India recently held in the case of **Ramgopal and another Vs. The State of Madhya Pradesh** in CrI.A.No.1489 of 2012, dated 29.09.2019, that the offences which are 'non-compoundable' cannot be compounded by a Criminal Court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the Court would amount to alteration, addition and modification of Section 320 Cr.P.C. which is the exclusive domain of the Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. The relevant paragraphs are extracted hereunder:

'12.The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very objet of the administration of criminal justice system.

13.It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with

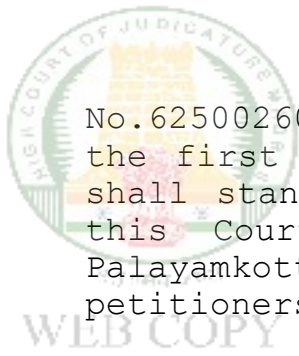


rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C., may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh and others Vs. State of Punjab and others and Laxmi Narayan ((Supra)).**

5. In view of the above judgment and on perusal of the allegations, the nature of injuries incurred, for which, the petitioners 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. Further, 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. Further, the petitioners and the second respondent are the residents of the same Village. The quashing of these criminal proceedings will advance peace, harmony and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other. That apart, the cause of administration of criminal justice system would remain un-affected on acceptance of amicable settlement between the parties and / or resultant acquittal of the petitioners.

6. In view of the above, the petitioners are acquitted from the charges imposed in S.C.No.319 of 2015, dated 16.12.2015, on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court) as modified in Crl.A.(MD).No.19 of 2016 dated 23.08.2021 and thereby, sentenced the petitioners to undergo three months imprisonment under Section 323 I.P.C.

7. Accordingly, this Criminal Original Petition stands allowed and the Joint Compromise Memo shall form part and parcel of this order. The petitioners shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) as costs, to the District Siddha Medical Officer, CCRI, Periyakulam, in State Bank of India, Periyakulam Branch bearing Account No.10767823177, IFSC No.SBIN000898, MICR Code



No.625002601, on or before **24.02.2022** and produce the receipt before the first respondent failing which the order passed by this Court shall stand vacated automatically without any further reference to this Court. The petitioners are confined at Central Prison, Palayamkottai. The Jail Authorities are directed to release the petitioners forthwith, if they are not required for any other case.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

22/02/2022

Sub Assistant Registrar(CS)

Tsg

ENCL.: XEROX COPY OF JOINT COMPROMISE MEMO.

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Sessions Judge, Mahalir Neethimandram
(Fast Track Mahila Court), Thoothukudi
- 2.The Superintendent,
Central Prison, Palayamkottai.
- 3.The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

COPY TO

The District Siddha Medical Officer,
CCRI, Periyakulam,

+1 CC to M/s.V.RAJIV RUFUS, Advocate (SR-7902[F] dated 22/02/2022)

CRL.O.P. (MD)No.3609 of 2022
22.02.2022

sk(CO)

TR(22.02.2022) 4P 7C