



Bail slip

The Petitioner/Sole Accused viz Sankar was released on bail in Crl.MP(MD)No.4957 of 2022 in Crl.A(MD)No.289 of 2022 dated 20.04.2022 order of the Madurai Bench of Madras High Court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.A.(MD).No.289 of 2022

Sankar

... Appellant/Sole Accused

Vs.

The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.503 of 2017).

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 374(2) of Cr.P.C to call for the records in Special S.C.No.40 of 2019, dated 14.03.2022 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POSCO Act, Tirunelveli and to set aside the same.

For Appellant : Mr.V.Rajiv Rufus

For Respondent : Ms.M.Aasha
Government Advocate (crl.side)

JUDGMENT

This Criminal Appeal has been filed to set aside the order passed in Special S.C.No.40 of 2019, dated 14.03.2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POSCO Act, Tirunelveli.

2.The learned counsel appearing for the appellant would submit that pending the appeal, the appellant and the father of the victim girl have amicably settled the issue and filed a compromise memo.

3.The learned counsel appearing for the respondent also confirmed the same.

4.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:-

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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 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.

5. In view of the aforesaid, the judgment passed in Special S.C.No.40 of 2019, dated 14.03.2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POSCO Act, Tirunelveli is set aside.

6. Accordingly, the Criminal Appeal is allowed. The compromise memo, dated 27.04.2022 shall form part and parcel of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps

Enclose 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 /

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



To

1.The Sessions Judge,
Special Court for Exclusive Trial of Cases under POSCO Act,
Tirunelveli.

2.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V. RAJIV RUFUS, Advocate (SR-19913[F] dated
20/04/2022)

CRL.A. (MD) .No.289 of 2022
29.04.2022

RK(17/05/2022) 4P 7C