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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 17/11/2022

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Crl.RC(MD)No.392 of 2022

1.Veilan
2.Arumugam
3.Selvam
4.Santhosh
5.Murugesan
6.Ammasi

: Petitioners/Appellants/
A1 to A6

Vs.

The Inspector of Police,
Natchiyapuram Police Station,
Sivagangai District.

(In Crime No.86 of 2015) : Respondent/Respondent/
Complainant

Prayer:- This Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records of the Principal District Judge, Sivagangai, in Crl.A No.34 of 2019, dated 01/04/2022, confirming the conviction on the petitioner by the Chief Judicial Magistrate-cum-Assistant Sessions Judge, Sivagangai, in SC No.79 of 2017, dated 12/04/2019.



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For Petitioners : Mr.M.Ramu
For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

O R D E R

This revision has been filed against the judgment passed by the the Principal District Judge, Sivagangai, in CrI.A No.34 of 2019, dated 01/04/2022, confirming the judgment of conviction and sentence imposed upon the revision petitioners by the Chief Judicial Magistrate-cum-Assistant Sessions Judge, Sivagangai, in SC No.79 of 2017, dated 12/04/2019.

2.The case of the prosecution in brief:-

On 01/08/2021 at about 8.15 pm, when the de-facto complainant was in his house, all the accused persons due to previous enmity with an intention to cause assault assembled in front of his house with deadly weapons, abused him in filthy language; and A1 tried to murder him with aruval. When the assault was resisted, injury occurred on his right forehead. Similarly, A2 also tried to murder him with aruval and due to it, injury occurred on the right rib region. A3 to A6 joined along with A1



and A2 and attacked with wooden log, thereby caused grievous and simple injuries to the de-facto complainant.

3.On the basis of the above said occurrence, a case was registered in Crime No.86 of 2015 for the offences under sections 147, 148, 294(b), 323, 324, 506(ii) and 307 IPC. After completing the formalities of investigation, final report was filed before the committal court. After committal process is over, it was taken on file in SC No.79 of 2017 by the Assistant Sessions Judge, Sivagangai, for trial.

4.Before the trial court, 13 witnesses were examined and 13 documents marked, apart from 2 material objects were also exhibited. On the side of the accused, 1 witness was examined and 3 documents were marked.

5.At the conclusion of the trial process, the trial court found all the accused guilty as detailed below.



Rank of the Accused	Section	Sentenced	Fine Amount
A1 and A2	148 IPC	To undergo 1 year R/I	To pay a fine amount of Rs.250/- with default clause.
A1 and A2	307 IPC	To undergo 7 years R/I	To pay a fine amount of Rs.1,000/- with default clause.
A3 to A6	148 IPC	To undergo 1 years R/I	To pay a fine of Rs. 250/- with default clause.
A3 to A6	307 r/w 149 IPC	To undergo 7 years R/I	To pay a fine of Rs. 1,000/- with default clause.

6.Challenging the above said conviction and sentence, all the accused persons filed appeal before the Principal District Judge, Sivagangai, in CrI.A No.34 of 2019. That was also dismissed, confirming the conviction and sentence imposed by the trial court. Against which, this revision has been preferred by the accused persons.

7.Pending appeal, it was informed to this court that compromise was reached between the parties and they have also settled the entire issue out of the court and the compensation amount was also paid to the injured, who is the de-facto complainant herein.



8. Since the offences under sections 307, 148, 294(b), 147 and 506(ii) IPC are not compoundable in nature, the learned counsel appearing for the revision petitioners by citing the judgment of the Hon'ble Supreme Court in the case of ***Ramgopal and another Vs. The State of Madhya Pradesh (Criminal Appeal No.1489 of 2012, dated 29/09/2021)*** has made his submission.

9. The petition is filed under section 482 Cr.P.C seeking permission of this court to compound the offence. In the above said judgment, the Hon'ble Supreme Court went to the issue of compounding the offences, which are not compoundable in nature and has finally concluded that by exercising the power under Section 482 Cr.P.C, even non-compoundable offences can be permitted to be compounded. But while exercising the above said jurisdiction, care must be undertaken to the following issues:-

"(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; and



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(iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

10. So in the light of the above said direction, now let us bear in mind the facts and circumstances of the present case.

11. It appears that there was previous enmity between the parties over a petty issue namely missing of one chick. It is a case and counter, the present case in SC No.79 of 2017 and CC No.23 of 2018. Both the cases have been tried simultaneously by the Assistant Sessions Judge and an issue has been framed to the effect that whether, the present case viz., SC No.79 of 2017 and CC No.23 of 2018 occurred in the very same time and place. But concluded that both the occurrences did not take place in the very same time and place and the complaint given by A1 was a prior occurrence. Out of the above said prior occurrence only, the present occurrence said to have been taken place. The result of the counter case is not known.



12. But however, it is seen that the de-facto complainant is also present before the court and enquiry was made by me. He has stated that because of the above said compromise, he is not willing to proceed the matter further and he has no objection to acquit the accused persons. The nature of the injuries have also been noted. No doubt, there was a grievous injury, measuring 10 x 3 x 2 cm laceration on the right forehead; 10x 3 x 3 cm laceration on the right rib region. But however, considering the fact that both are the residents of the same village and neighbours also and considering the reason for the above said occurrence, I am of the considered view that permission may be granted to the petitioners to compound the offences.

13. In view of the above said discussion, the criminal revision is **allowed** and the impugned judgment of conviction passed by the trial court, which was confirmed by the first appellate court are set aside and the revision petitioners/A1 to A6 are acquitted from the charges levelled against them. The fine amount if any paid need not be refunded to the revision petitioners. Further, the joint compromise memo filed by the parties



shall form part and parcel of the this order.

Accordingly, this criminal revision stands **allowed** as indicated above.

17/11/2022

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Chief Judicial Magistrate/
Assistant Sessions Judge,
Sivagangai.
- 2.The Principal District Judge,
Sivagangai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J

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