



CrI.O.P.(MD) No.14412 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

CrI.O.P.(MD) No.14412 of 2022

1. K.Dhas,
2. M. David,

: Petitioners

Vs

1.The State represented by
The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District
(Crime No. 403 of 2022).

2. Sukumaran,
3.Rosily (Died)

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to record the compromise memo reached between the petitioners and the R2 and R3 and to acquit the petitioners from the conviction imposed in S.C.No. 36 of 2004, dated 20.06.2006 passed by the learned Additional Sessions Judge, Kuzithurai modified the imposed conviction in C.A.No.142 of 2006, dated 20.07.2016, by the learned Mahila Fast Track Court, Nagercoil and modify the order of conviction by this Court in CrI.R.C.(MD)No.770 of 2016, dated 09.09.2021 and sentenced to undergo one year imprisonment



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under Section 326 IPC in Crime No.403 of 2002, on the file of the first respondent and to set aside the conviction.

For Petitioner : M/s. Selvakumar.S,
For R1 : Mr.A.Albert James,
Government Advocate (Crl.Side)
For R2 : Mr.S.Sudalai Muthu

ORDER

This criminal original petition has been filed seeking to record the compromise memo reached between the petitioners and the R2 and R3 and to acquit the petitioners from the conviction imposed in S.C.No. 36 of 2004, dated 20.06.2006 passed by the learned Additional Sessions Judge, Kuzithurai and modify the order of conviction by this Court in Crl.R.C.(MD)No.770 of 2016, dated 09.09.2021 and sentenced to undergo one year imprisonment under Section 326 IPC in Crime No.403 of 2002, on the file of the first respondent and to set aside the conviction.

2.The learned Counsel appearing for the petitioner submitted that the petitioners are accused persons in S.C.No.36 of 2004, on the file of the Additional Sessions Judge, Kuzhithurai. After trial, they were convicted. Against which, the petitioners filed an appeal in C.A.No. 142 of 2006, before the Mahila Fast Track Court, Nagerkoil and the order passed in S.C.No.



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36/2004 was modified on 15.07.2016. Then, they filed an appeal before this Court in CrI.R.C.(MD)No.770 of 2016, dated 09.09.2021, this Court modified the sentence imposed by the lower Court. Now, against the order passed in CrI.R.C.(MD)No.770 of 2016, dated 09.09.2021, this petition is filed to record compromise by invoking Section 482 Cr.P.C inherent powers of the Court.

3.I have heard the learned Counsel appearing for the petitioner.

4.On a perusal of records, it is seen that the petitioners are prosecuted for the offences punishable under Sections 450 and 307 IPC. After trial, they were convicted for the offence under Section 326 IPC and was sentenced for three years imprisonment with fine amount of Rs.1,000/-, in default, to undergo three years rigorous imprisonment. Aggrieved by the same, the petitioners filed an appeal in C.A.No.142/2006, before the Mahila Fast Track Court, Nagercoil and the conviction was modified to one year rigorous imprisonment for the offence under Section 326 IPC. Then, the petitioner filed a revision petition before this Court in CrI.R.C.(MD)No.770/2016 and the same was dismissed and this Court confirmed the sentence imposed by the



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Appellate Court. Now, the petitioners filed this petition as the parties are reached compromise and pleaded to acquit the accused persons from the case.

5. Admittedly, no criminal proceedings is pending against the petitioners. The conviction imposed upon them had become final. The basic principle of the criminal law is of no review of an order as contemplated under the criminal procedure code, after the dismissal of a criminal case and there is no *lis* pending in the High Court. Therefore, after dismissal of the main case, by invoking Section 482 Cr.P.C., the final order cannot be set aside. Section 362 Cr.P.C. in clear terms lays down that the Court cannot alter the judgment, after the same has been signed, except to correct the clerical or arithmetical errors. This has been considered by our Hon'ble Supreme Court in the case of ***Moti Lal Vs. State of Madhya Pradesh***, which runs as follows:

'2. Section 362 Cr.P.C. in clear terms lays down that the Court cannot alter judgment after the same has been signed except to correct clerical or arithmetical errors. That being the position the High Court had no jurisdiction under Section 482 Cr.P.C. to alter the earlier judgment.'



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6.In view of the above, this criminal original petition stands dismissed.

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12.08.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
lr

To
1.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District



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V.SIVAGNANAM, J.

lr

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

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