



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 18.03.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.O.P. (MD)No.14666 of 2021**

WEB COPY  
Balaraman

... Petitioner/Appellant/Accused

Vs.

Manoharan

...Respondent/Respondent/Complainant

**Prayer:** This Criminal Original Petition filed under Section 482 Cr.P.C., to issue appropriate direction by setting aside the docket order made by the Principal Sessions Judge, Tuticorin, dated 20.09.2021 on the un numbered Criminal Appeal filing No.4188/2021 on the file of the Principal Sessions Judge, Tuticorin in the matter of appeal against the judgment and conviction imposed in C.C.No.13 of 2014 on the file of the Judicial Magistrate (Fast Track Court at Magistrate Level), Kovilpatti, dated 25.08.2021 and to direct the Appellate Court to take the criminal appeal in the matter along with the suspension of sentence application and consider on merits in accordance with law.

For Petitioner : Mr.G.Mariappan

For Respondent : Mr.S.Ramasamy

**ORDER**

This Criminal Original Petition has been filed to set aside the docket order passed by the learned Principal Sessions Judge, Tuticorin, dated 20.09.2021 on the un numbered Criminal Appeal filing No.4188/2021 as against the judgment and conviction imposed in C.C.No.13 of 2014 on the file of the Judicial Magistrate (Fast Track Court at Magistrate Level), Kovilpatti, dated 25.08.2021 and to direct the Appellate Court to take the criminal appeal along with the suspension of sentence application on file and consider the same on merits and in accordance with law.

2.The respondent lodged a private complaint alleging that the petitioner borrowed a sum of Rs.11,38,500/- from the respondent. In order to repay the said amount, he issued a cheque. When the said cheque was presented for collocation, the same was returned as dishonoured for the reason 'insufficient funds'. After causing statutory notice, the respondent lodged a complaint for the offence punishable under Section 138 of NI Act as against the petitioner.



3. On perusal of the oral and documentary evidence, it is seen that the trial Court convicted the petitioner and sentenced him to undergo one year simple imprisonment and also to pay the cheque amount of Rs.11,38,500/- as compensation payable by the petitioner herein. Aggrieved by the same, the petitioner preferred an appeal before the Appellate Court. Since the sentence was not suspended by the trial Court, he was directed to appear before the appellate Court. However, he could not able to surrender before the Appellate Court and hence, the appeal was returned as not maintainable. Aggrieved by the same, the present petition has been filed.

4. The learned counsel for the petitioner submitted that while pending this petition, the petitioner has paid the entire compensation amount as awarded by the trial Court and the said amount was duly received by the respondent.

5. The learned counsel for the respondent has also no objection to set aside the conviction and sentence imposed by the trial Court.

6. 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.

Moreover, 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.

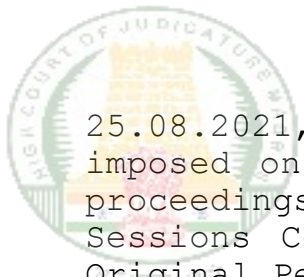
20. Having appraised the aforestated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons 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.

7. In view of the above, the conviction and sentence imposed on the petitioner in C.C.No.13 of 2014, on the file of the Judicial Magistrate (Fast Track Court at Magistrate Level) Kovilpatti, dated



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25.08.2021, is hereby set aside and the conviction and sentence imposed on the petitioner itself is set aside by this Court, the proceedings pending before the Appellate Court, namely, Principal Sessions Court, Tuticorin, is closed. Accordingly, this Criminal Original Petition is allowed.

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Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

To:

1.The Principal Sessions Judge,  
Tuticorin.

2.The Judicial Magistrate (Fast Track Court at Magistrate Level),  
Kovilpatti.

+1 CC to M/s.G.MARIAPPAN, Advocate ( SR-13249[F] dated 21/03/2022 )

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18.03.2022

SG(CO)

TR(27.04.2022) 4P 4C