



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.R.C. (MD)No.801 of 2021**

Vishwanathan

... Petitioner/  
Appellant/  
Sole Accused

Vs.

1.The Inspector of Police,  
Keeramangalam Police Station,  
Pudukkottai District.  
(Crime No.34 of 2013)

... Respondent/Respondent/  
Complainant

**Prayer :** This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records set aside the order passed in Crl.Appeal No.33 of 2019 on the file of learned Principal District and Sessions Court, Pudukkottai, dated 06.03.2020 confirming the order passed in C.C No.92 of 2013 by the learned District Munsif cum Judicial Magistrate Court, Alangudi, dated 05.04.2019 and to set aside the sentence as well the penalty imposed on the petitioner.

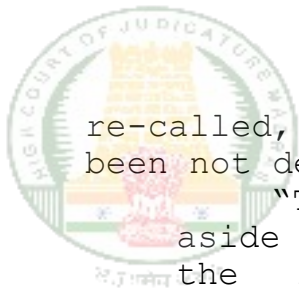
For Petitioner : Mr.E.Balasubramanian  
For Respondent : Mr.M.Aasha  
Government Advocate (Criminal Side)

### **O R D E R**

Though this Criminal Revision Case was dismissed, by an order, dated 16.03.2022, the matter is listed today under the caption 'for being mentioned', at the instance of the learned counsel appearing for the petitioner.

2.The learned counsel appearing for the petitioner would submit that when the matter was ordered by this Court on 16.03.2022, the petitioner got back the bundle from the earlier counsel and the petitioner was not aware of the listing of this on the said date and I received vakalat from the petitioner thereafter only. When I filed vakalat for the petitioner, I came to know that this petition was dismissed on 16.03.2022. Hence, he prays this Court to recall the earlier order.

3.In view of the submission made by the learned counsel appearing for the petitioner, the order, dated 16.03.2022 is hereby



re-called, since the certified copy of the said order has so far been not despatched and the following order is passed:-

"This Criminal Revision Case has been filed to set aside the order passed in Crl.A.No.33 of 2019 on the file of the learned Principal District and Sessions Court, Pudukkottai, dated 06.03.2020, confirming the order passed in C.C No.92 of 2013 by the learned District Munsif cum Judicial Magistrate Court, Alangudi, dated 05.04.2019.

2.The case of the prosecution is that when the defacto complainant was cutting Poovarasu branches for feeding his cattle, the accused came with iron rod threatened and abused him and also assaulted him on his right leg, left hand and head. As a result, the defacto complainant sustained injuries and he was taken to the respondent police station by his son and he lodged a complaint before the respondent and the same was registered as Crime No.34 of 2013 against the petitioner for the alleged offences under Section 294 (b), 324 and 506(ii) IPC. The case was charge sheeted and thereafter, the offence was altered to Section 326 IPC. On the side of the prosecution, 10 witnesses were examined and 8 exhibits along with 1 material object were marked to substantiate the case of the prosecution.

3. The learned counsel for the petitioner submits that the trial Court has taken up the case in C.C.No.82 of 2013, dated 05.04.2019 and after considering the materials on record, acquitted the petitioner for the offence under Section 506(ii) IPC, however, the learned Judge has come to the conclusion that the offences under Sections 294(b) and 326 IPC are made out against the petitioner and thereby convicted the petitioner for the offence under Section 294 (b) IPC and imposed a sum of Rs.400/- (Rupees Four Hundred only) as penalty, in default to undergo 1 week simple imprisonment and with regard to offence under Section 326 IPC, for a period of 6 months rigorous imprisonment along with a fine of Rs.1000/- (Rupees One Thousand only), in default to undergo 2 weeks simple imprisonment. Challenging the same, the petitioner filed C.A.No.33 of 2019 before the learned Principal District and Sessions Judge, Pudukottai and the learned Appellate Judge confirmed the conviction and sentence passed by the trial Court. As against the same, the present Criminal Revision Case is filed.

4. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves. The parties also appeared before this Court and stated that they settled the issues and the defacto complainant has no objection to set aside the conviction imposed on the petitioner.



5. A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioner and the defacto complainant and also by their respective counsel.

6. The Joint Memo of Compromise, dated 22.03.2022 reads as follows:-

"(1) It is submitted that on 15.03.2013, the defacto complainant/2<sup>nd</sup> respondent while doing agricultural work, the petitioner came to spot and scolded filthy language and assaulted with hand and threatened him with dire consequences, due to previous enmity. Hence, the defacto complainant/2<sup>nd</sup> respondent lodged the complaint before the 1<sup>st</sup> respondent and the same was registered in Crime No.34 of 2013 for the offences u/s.294(b), 324, 506 (ii) of I.P.C. Thereafter the 1<sup>st</sup> respondent completed the investigation, they filed a charge sheet before the learned District Munsif Cum Judicial Magistrate Court, Alangudi and the same was taken on file in C.C.No.92 of 2013 for the offences u/s.294(b), 324, 326, 506(ii) of I.P.C.

(2) It is submitted that the Learned District Munsif Cum Judicial Magistrate Court, Alangudi in C.C.No.92 of 2013 has convicted the petitioner for the offences u/s.294(b) and 326 of I.P.C. while acquitting him u/s.506(ii) of I.P.C.

(3) It is submitted that the petitioner filed an Appeal in C.A.No.33 of 2019 on the file of Learned Principal District & Sessions Judge, Pudukkottai against the judgment of conviction dated 06.03.2020 in C.C.No.92 of 2013 and the same was confirming the order of conviction and sentenced passed by the Learned District Munsif Cum Judicial Magistrate Court, Alangudi in C.C.No.92 of 2013.

(4) It is submitted that the petitioner filed the Criminal Revision in Crl.R.C.(MD)No.801 of 2021 before this Hon'ble Court. This Hon'ble Court disposed the above Criminal Revision and directed the respondent police to secure the petitioner.

(5) It is submitted that in the meantime the defacto complainant and the petitioner are compromised out of Court. The petitioner and the 2<sup>nd</sup> respondent are close blood relatives, due to intervention of family elders, the parties were entered into the



compromise. In this circumstance the 2<sup>nd</sup> respondent not willing to proceed further against the petitioner before the respondent police.

(6) It is submitted that the petitioner and the 2<sup>nd</sup> respondent are compromise between themselves and the case is pending from 2013. The offences mentioned in the FIR as well as charge sheet was arose due to family dispute between the parties i.e., they are close relatives. Under these circumstances the FIR in Crime No.34 of 2013 as well as charge sheet C.C.No.92 of 2013 and Crl.R.C.(MD)No.801 of 2021 may be quashed for welfare of the parties."

7. All the parties are appeared before this Court. 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. 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.*

*8. In view of the aforesaid, this Court feels it appropriate to invoke the jurisdiction under Section 482 of Cr.P.C and quash the entire criminal proceedings in the present case. As a sequel thereto, all the offences emanating out of the First Information Report registered in Crime No.34 of 2013 leading to this revision stand annulled. Accordingly, the judgment passed by the*



Principal District and Sessions Judge, Pudukkottai in C.A.No.33 of 2019 dated 06.03.2020 confirming the judgment passed in C.C.No.92 of 2013 dated 05.04.2019 by the learned District Munsif Cum Judicial Magistrate, Alangudi, is set aside and this Criminal Revision Case is allowed. The Joint Memo of Compromise, dated 22.03.2022 shall form part and parcel of this order. "

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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Encl: Photocopy of Compromise Memo.

To:

1. The Principal District and Sessions Court,  
Pudukkottai.
2. The Inspector of Police,  
Keeramangalam Police Station,  
Pudukkottai District.
3. The District Munsif cum Judicial Magistrate Court,  
Alangudi.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Copy to:

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

+1 CC to M/s.E.BALA SUBRAMANIAN, Advocate ( SR-13962[F] dated 23/03/2022 )

Crl.R.C.(MD)No.801 of 2021  
23.03.2022

MGJ(11.04.2022) 6P 8C