



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.956 of 2021

WEB COPY

N.Ellammal

... Petitioner/ Appellant/
Accused

Vs

C.Sethuraman

... Respondent/ Respondents/
Complainant

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, to call for the records in C.A.No.125 of 2019 dated 09.11.2021 by the II Additional District and Sessions Judge, Tiruchirappalli, by confirming the judgment in S.T.C.No.609 of 2018 on the file of the Judicial Magistrate, Manapparai and duly set aside the judgment of the Courts below by acquitting the revision petitioner.

For Petitioner : Mr.R.Narayanan

For Respondent : Mr.K.Manoharan

O R D E R

This Criminal Revision Case has been filed as against the judgment passed in C.A.No.125 of 2019 dated 09.11.2021 by the II Additional District and Sessions Judge, Tiruchirappalli confirming the judgment passed in S.T.C.No.609 of 2018 by the Judicial Magistrate, Manapparai.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence under Section 138 of Negotiable Instrument Act. The trial Court convicted the petitioner and sentenced him to undergo simple imprisonment for nine months with compensation of Rs.4,00,000/- and in default of payment of the compensation, the petitioner shall undergo a further period of two weeks. Aggrieved by the same, the petitioner has preferred an appeal in C.A.No.125 of 2019, however the same was dismissed and the Appellate Court confirmed the conviction and sentence imposed by the trial Court. Thereafter, the petitioner has filed this petition before this Court.

3. While pending the Criminal Revision case, there was settlement arrived between the parties and the entire amount has been paid to the respondent. To that extent, the petitioner and the respondent filed a joint memo which reads as under:-

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



It is submitted that Revision Petitioner has already deposited a sum of Rs.1,00,000/- before the Judicial Magistrate, Manapparai being 25% of the cheque amount a sum of Rs.4,00,000/-. Further, the Revision Petitioner paid a sum of Rs.3,00,000/- through demand draft dated 19.03.2022 and DD No.407373 drawn on the Tiruchirappalli District Central Co.OP. Bank Limited, Vaiyampatti Branch to the Respondent today. The entire cheque amount was paid to the Respondent. So, the above said cheque matter was compromised between the Revision Petitioner and the Respondent. The revision petitioner counsel will endorsed no objection to the Complainant counsel before the trial Court for withdrawing of a sum of Rs.1,00,000/-. In this regard, this memo is filed before this Hon'ble Court.

4. Both the petitioner and the respondent are before this Court. The respondent states that the entire amount has been received and he has no objection to compound the offence.

5. In this regard, 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.

6. In view of the aforesaid facts, 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. Accordingly, the judgment passed by the II Additional District Sessions Judge, Tiruchirappalli in C.A.No.125 of 2019 on 09.11.2021 confirming the judgment passed in S.T.C.No.609 of 2018 on 12.07.2019 by the Judicial Magistrate, Manapparai is set aside. The petitioner is hereby acquitted from the offence punishable under Section 138 of Negotiable Instrument Act.

7. Accordingly, the Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.II Additional District and Sessions Judge, Tiruchirappalli

2.Judicial Magistrate, Manapparai.

+1 CC to M/s.K.MANOCHARAN, Advocate (SR-14453[F] dated 25/03/2022)

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RD(07.04.2022) 4P 4C