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Crl.R.C.No.753 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.753 of 2023

Anandhi

... Petitioner

Vs.

1.The State Rep. by,  
The Sub-Inspector of Police,  
Naduveerapattu Police Station,  
Cuddalore District.

2.S.Ramamoorthy

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to record this consent affidavit and set aside the judgment of conviction passed in Crl.A.No.3 of 2022 dated 07.07.2022 on the file of the Principal District Judge, Cuddalore, in confirming the order of conviction passed against the 2<sup>nd</sup> respondent herein on the file of the Additional Mahila Court, Cuddalore in C.C.No.89 of 2020 dated 03.01.2022 and by allowing the present Criminal Revision Petition.

For Petitioner : Mr.S.Anil Sandeep  
For Respondents : Mr.N.Vijaya Baskar for  
M/s.Law Vision

ORDER

The petitioner is the defacto complainant in Crime No.242 of 2019, on the file of the 1<sup>st</sup> respondent Police. The 2<sup>nd</sup> respondent/A1 was convicted by



the learned Judicial Magistrate, Additional Mahila Court, Cuddalore (trial Court) in C.C.No.89 of 2020, dated 03.01.2022 and sentenced to undergo Simple Imprisonment for two years and to pay a fine of Rs.1,000/-, in default to undergo six months Simple Imprisonment for offence under Section 326 IPC. Similarly, A2 and A3 were also convicted for offence under Section 323 IPC and to pay a fine of Rs.500/- each. Challenging the conviction and sentenced, the 2<sup>nd</sup> respondent preferred an appeal before the learned Principal District Sessions Judge, Cuddalore (lower appellate Court) in Crl.A.No.3 of 2022. The lower appellate Court, by judgment, dated 07.07.2022 dismissed the appeal confirming the judgment of the trial Court in C.C.No.89 of 2020. Challenging the same, the present Criminal Revision Case is filed by the petitioner/defacto complainant since the issue between her and the accused resolved.

2.The gist of the complaint is that the petitioner was having around thousand ducks and she was feeding the same and thereby, earning her livelihood. The 2<sup>nd</sup> respondent is known to her since he also hails from the same area. The 2<sup>nd</sup> respondent used to steel the ducks from the petitioner



and the same was questioned. On 12.08.2019, the 2<sup>nd</sup> respondent along with his father and mother abused and assaulted the petitioner and left her injured. Annoyed over the same, the petitioner lodged a complaint (Ex.P1) to the 1<sup>st</sup> respondent Police which was registered in Crime No.242 of 2019 for offence under Sections 294(b), 323, 324, 506(2) IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. On completion of investigation, charge sheet filed before the trial Court.

3.The contention of the petitioner is that though the FIR was filed for offence under Sections 294(b), 323, 324, 506(2) IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002, at the time of filing charge sheet, Section 324 IPC left out instead 326 IPC added finding that the injuries sustained by the petitioner was grievous. During trial, on the side of the prosecution nine witnesses examined as PW1 to PW9 and nine documents marked as Exs.P1 to P9. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the 2<sup>nd</sup> respondent/A1, A2 and A3 as stated above. He further contented that the 2<sup>nd</sup> respondent preferred criminal revision before



this Court in Crl.R.C.No.1193 of 2022 since the issue resolved between the petitioner and the 2<sup>nd</sup> respondent resolved. Since the petitioner agreed to withdraw the complaint and to file appropriate petition before the concerned Court, the said criminal revision was dismissed as withdrawn on 09.09.2022. The 2<sup>nd</sup> respondent was informed that after withdrawal of Crl.R.C.1193 of 2022, there is no provision for compounding the offence or the defacto complainant compromise to be effected upon. In view of the same, now the present criminal revision is filed by the petitioner seeking either to set aside the judgments of the Courts below or to withdraw the complaint against the 2<sup>nd</sup> respondent and two others on the strength of compromise. In support of his contention, the petitioner filed affidavit seeking to set aside the judgments of the Court below and also filed joint compromise memo along with the 2<sup>nd</sup> respondent. The learned counsel for the 2<sup>nd</sup> respondent confirmed the same. Further, the learned counsel for the petitioner relied on the decision of the Hon'ble Apex Court in the case of ***“Ramgopal & Anr., Versus The State of Madhya Pradesh*** reported in ***LL 2021 SC 516***”



4.Today, both the petitioner and the 2<sup>nd</sup> respondent are appeared before this Court, produced proof for identify and confirmed the compromise. The affidavit filed by the petitioner is as follows:

*“2. I state that I am filing the present revision petition to set aside the judgment of conviction passed in CRL.A.No. 3 of 2022 dated 07.07.2022 on the file of the Principal District Judge, Cuddalore, in confirming the order of conviction passed against the 2nd respondent on the file of the Additional Mahila Court, Cuddalore in C.C.No.89 of 2020 dated 03.01.2022 from 2 years simple imprisonment for the alleged offences under section 326 of IPC and fine of Rs.1000/- in default to undergo six-month simple imprisonment and all the sentences of imprisonment to run concurrently and by allowing the present criminal revision petition.*

*3. I state that I preferred a complaint and the same was registered as F.I.R. in Crime No.242/2019 against the 2nd respondent.*

*4. I state that the dispute between me and the 2nd respondent have been settled mutually and we entered into a compromise. I further state that as myself and the 2nd respondent were belongs to a same locality, the dispute between us were mutually resolved.*



*5.I further states that as myself and the 2nd respondent have arrived at a compromise, so I have no objection to set aside the judgment of conviction passed in CRL.A.No. 3 of 2022 dated 07.07.2022 on the file of the Principal District Judge, Cuddalore, in confirming the order of conviction passed against the 2nd respondent on the file of the Additional Mahila Court, Cuddalore in C.C.No.89 of 2020 dated 03.01.2022. I further states that I am willfully disposing my consent to set aside it.*

*6. I further states that as myself and the 2nd respondent entered into a compromise, it is just and necessary to set aside the order of conviction.”*

5.Today, the Special Sub Inspector of Police attached to the 1<sup>st</sup> respondent Police is present before this Court. The learned Additional Public Prosecutor appearing for the 1<sup>st</sup> respondent Police on instructions submitted that the identity of the petitioner is not disputed and the compromise is also confirmed, which had been independently verified by the 1<sup>st</sup> respondent Police with the parties.



6.This Court considered the submissions and perused the materials available on record.

7.The Hon'ble Apex Court in **Ramgopal** case (cited supra) permitted the cases for compromise which are not compoundable under Section 320 Cr.P.C., and held that Nature and effect of the offence on the conscious of the society; Seriousness of the injury, if any; Voluntary nature of compromise between the accused and the victim; and Conduct of the accused persons, prior to and after the occurrence of the purported offence and other relevant considerations are to be verified. The relevant portion is extracted as follows:

*“11. True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C. which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been*



*consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.*

*12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.*

*13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-*



*dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in '**Narinder Singh & Ors. vs. State of Punjab & Ors.**<sup>3</sup> and **Laxmi Narayan (Supra)**'. ”*



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8.In the light of the above decision and on enquiry with the parties, this Court comes to the conclusion that real justice could be done only if the proceedings against the petitioner and other two accused are quashed.

9.In view of the above, this Court invoking Section 482 Cr.P.C., quashes the FIR in Crime No.242 of 2019 and consequently, set asides the judgment of the trial Court, dated 03.01.2022 in C.C.No.89 of 2020 and the judgment of the lower appellate Court, dated 07.07.2022 in Crl.A.No.3 of 2022. Accordingly, this Criminal Revision Case is allowed.

13.12.2023

Index : Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
Internet: Yes/No

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To



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1.The Principal District Sessions Court,  
Cuddalore.

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2.The Judicial Magistrate,  
Additional Mahila Court, Cuddalore.

3.The Sub-Inspector of Police,  
Naduveerapattu Police Station,  
Cuddalore District.

4.The Public Prosecutor,  
High Court, Madras.



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M.NIRMAL KUMAR, J.

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