



Crl.A.(MD)No.39 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2023

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

Crl.A.(MD)No.39 of 2018

Natarajan

... Appellant

Vs.

1.The State Rep.by
The Inspector of Police,
Seithunganallur Police Station,
Tuticorin District.
Crime No.231 of 2015

2.Vijay Anand ... Respondents
(R2 impleaded as per order of this Court in Crl.M.P.(MD)No.5531 of
2023 in Crl.A.(MD)No.39 of 2018)

RAYER : Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, to call for the records pertaining to Judgment dated 20.12.2017 made in S.C.No.158 of 2016 passed by the learned Principal Sessions Judge, Tuticorin, convicting the appellant under Section 3(1) of the Tamil Nadu Property (Prevention of Damages and Lost)Act, 1992 and sentenced him to undergo for one year rigorous imprisonment and also imposed a sum of Rs.22,000/- as fine amount and in default of payment of fine, the appellant shall undergo three months rigorous imprisonment and set aside the same.



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For Appellant : Mr.R.Aravind Raj
For R1 : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Side)
For R2 : Mr.R.Anand

ORDER

This Criminal Appeal has been filed to set aside the judgment dated 20.12.2017 made in S.C.No.158 of 2016 passed by the learned Principal Sessions Judge, Tuticorin, convicting the appellant under Section 3(1) of the Tamil Nadu Property (Prevention of Damages and Lost)Act, 1992 and sentenced him to undergo for one year rigorous imprisonment and also imposed a sum of Rs.22,000/- as fine amount and in default of payment of fine, the appellant shall undergo three months rigorous imprisonment.

2.While pending this appeal, the second respondent and the appellant have entered into compromise and settled their issue amicably. The second respondent also filed his affidavit stating that he settled the issue with the appellant.



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3. 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 sum up 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 illwill and have no vengeance



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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.

4.In view of the above decision of the Hon'ble Supreme Court and the compromise entered between the parties, the conviction and sentence imposed by the Court below is hereby set aside and this criminal appeal is allowed.

05.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

WEB COPY

- 1.The Principal Sessions Judge, Tuticorin
- 2.The Inspector of Police,
Seithunganallur Police Station,
Tuticorin District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN,J.

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