



Crl.R.C(MD)No.109 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.109 of 2018

and

Crl.M.P(MD)Nos.1417 and 1418 of 2018

K.Ravichandran

...Petitioner

Vs.

R.Dhanapal

...Respondent

Prayer : This Criminal Revision has been filed under Section 397 & 401 of Criminal Procedure Code, to set-aside the judgment, dated 30.01.2018 passed by the I Additional District Judge (PCR), Trichy in Crl.A.No.92 of 2017, confirming the judgment, dated 05.09.2017 in C.C.No.122 of 2016 passed by the Judicial Magistrate No.I, Trichy, wherein the petitioner/accused has been convicted and sentenced for the offence under Section 138 of Negotiable Instrument Act and acquit the revision petitioner/accused.

For Petitioner : Mr.M.Saravanan

For Respondent : Mr.T.Balakrishnan



Crl.R.C(MD)No.109 of 2018

WEB COPY

ORDER

This petition has been filed to set aside the judgment, dated 30.01.2018 passed by the learned I Additional District Judge (PCR), Trichy in Crl.A.No.92 of 2017, confirming the judgment, dated 05.09.2017 in C.C.No.122 of 2016 passed by the learned Judicial Magistrate No.I, Trichy.

2.The case of the prosecution is that on 28.02.2015, the accused, his wife Sundari, sister Selvarani and son Janakiraman, to enlarge their business, borrowed a sum of Rs.4,00,000/- from the complainant and thereafter, failed to return the amount. Hence, the defacto complainant filed a private complainant under Section 138 of Negotiable Instruments Act, before the learned Chief Judicial Magistrate, Madurai and the same was taken on file in C.C.No.122 of 2016.

3. On the side of the prosecution, P.W.1 was examined and marked Ex.P.1 to Ex.P.7. On the side of the accused, no one was examined and no document was marked.



Crl.R.C(MD)No.109 of 2018

WEB COPY

4. On perusal of oral and documentary evidences, the trial Court convicted the accused for the offence punishable under Section 138 of Negotiable Instrument Act and sentenced him to undergo simple imprisonment for a period of one year and to pay a compensation of Rs.3,32,800/-. Aggrieved by the same, the accused person preferred an appeal and the Appellate Court confirmed the judgment of conviction and sentence by the trial Court. Hence, the present revision.

5. While pending revision, the parties have amicably settled the issues by payment of the cheque amount. It is also confirmed by the learned counsel for the respondent.

6. 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



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Crl.R.C(MD)No.109 of 2018

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



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Crl.R.C(MD)No.109 of 2018

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 aforesaid 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



Crl.R.C(MD)No.109 of 2018

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 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 decision of the Hon'ble Supreme Court and the compromise entered into between the parties, the conviction and sentence imposed by both the Courts below is hereby set aside.



Crl.R.C(MD)No.109 of 2018

Accordingly, this criminal revision petition is allowed. Consequently,
connected Miscellaneous Petitions are closed.

24.03.2023

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

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To

- 1.The I Additional District Judge (PCR),
Trichy.
- 2.The Judicial Magistrate No.I,
Trichy,



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Crl.R.C(MD)No.109 of 2018

G.K.ILANTHIRAIYAN, J.

vsd

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