



Crl.A(MD)No.222 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD)No.222 of 2016

Suresh @ Sureshkumar

... Appellant/Accused

vs.

State Represented by
The Inspector of Police,
Ilayankudi Town Police Station,
Sivagangai District.
In Crime No.20 of 2014

...Respondent/Complainant

PRAYER : This Criminal Appeal has been filed under Section 374 of Cr.P.C., to set aside the Judgment, dated 30.05.2016 in S.C.No.141 of 2014 on the file of the District Fast Mahalir Neethimantram, Sivagangai and acquit the appellant.

For Appellant : Mr.G.Bhagavath Singh

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

JUDGMENT

This Criminal Appeal has been filed to set aside the Judgment, dated 30.05.2016 passed in S.C.No.141 of 2014 by the District Fast Mahalir Neethimantram, Sivagangai.



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2.The crux of the complaint is that the appellant and the defacto complainant loved each other and the appellant, by giving false promise to marry the de-facto complainant, had physical relationship with her on several occasions. Subsequently, the de-facto complainant was pregnant and when the same was informed to the appellant, he stated that if she abort the pregnancy, he will marry her. Hence, the de-facto complainant aborted the pregnancy and thereafter, on 08.07.2014, she asked to marry her, but the appellant refused to marry her since she belongs to different community. Hence, the complaint.

3.After completion of investigation, the respondent police has filed a final report and the same has been taken cognizance by the trial Court for the offences punishable under Sections 417 and 376 of IPC.

4.On the side of the respondent, they had examined P.W.1 to P.W. 12 and also marked Exs.P.1 to P.10 and on the side of the accused, he had not examined any witness and no documents were marked.

5.On perusal of the oral and documentary evidence, the trial Court acquitted the accused for the offence under Section 376 of IPC and convicted the accused for the offences punishable under Section 417 of



IPC and sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default to undergo 3 months Rigorous Imprisonment. Aggrieved by the same, the present appeal has been filed.

6.The appellant was convicted for the offence punishable under Section 417 of IPC, which is compoundable in nature. While pending this appeal, both the de-facto complainant and the appellant entered into joint compromise and a joint compromise memo to that effect was filed on 07.06.2023 before this Court. Both the appellant and the de-facto complainant were identified by the first respondent represented by M/s.N.Regina, WPC 1448, All Women Police Station, Sivagangai District.

7.Considering the above circumstances and the settlement arrived between the parties, this Court is inclined to set aside the conviction and sentence imposed by the Court below.

8.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 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.

9.In view of the aforesaid, the Judgment made in S.C.No.141 of 2014 on the file of the Sessions Judge, FTC Mahila Court, Sivagangai, dated 30.05.2016, is hereby set aside.

10.Accordingly, the Criminal Appeal is allowed. The appellant/accused is acquitted. Bail bond if any executed by the appellant/accused shall stand cancelled and a fine amount if paid is



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ordered to be refunded to the appellant/accused forthwith. The memo of compromise filed by both parties shall form part of the Court records.

22.06.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

1.The Sessions Judge, FTC Mahila Court,
Sivagangai.

2.The Inspector of Police,
Ilayankudi Town Police Station,
Sivagangai District.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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