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Crl. R.C.(MD)No.512 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 23.08.2023

Delivered On : 14.09.2023

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl. R.C.(MD)No.512 of 2016

C.Palanivelu

.. Petitioner

Vs.

State;
Rep. by Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
(Crime No.2 of 2006)

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records of the learned Additional District and Sessions Judge/Special Court of EC Act and NDPS Act Cases, Pudukkottai in Crl.A.No.5 of 2011 by judgment dated 09.06.2016, confirming the conviction and sentence imposed by the learned Judicial Magistrate, Aranthangi in C.C.No.76 of 2006 by the judgment dated 02.09.2010 and set aside the judgments of the Courts below.

For Petitioner	: Mr.A.Arul Jenifer
For Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner to set aside the judgment and conviction passed by the learned Additional District and Sessions Judge/Special



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Court of EC Act and NDPS Act Cases, Pudukkottai, in Crl.A.No.5 of 2011 dated 09.06.2016 by confirming the judgment and conviction passed by the learned Judicial Magistrate, Aranthangi in C.C.No.76 of 2006 dated 02.09.2010.

2. When the matter was taken up for hearing, both side counsels are present before this Court and they represented that the matter was already settled between the parties through mediation and mediation report also filed.

3. This Court also perused the mediation report. As per the terms of the mediation report, the defacto complainant received a sum of Rs.5,00,000/- and also settled some property in favour of the defacto complainant. That apart, a sum of Rs. 5,00,000/- was also paid to the son of the accused. The settlement deed also executed in favour of the son of the accused. The wife of the accused, defacto complainant also received a demand draft for a sum of Rs.5,00,000/- to that effect, the matter has been settled between the parties.

4. At this juncture, the learned counsel appearing for the petitioner has produced judgment of the Hon'ble Supreme Court in the case of ***Bitan Sengupta and another v. State of West Bengal and another*** reported in (2018) 18 Supreme Court Cases 366, wherein the Hon'ble Supreme Court in para no.4 to 8 held as follows:-

“4.It is worthy to mention that during the pendency of the



appeal before the Sessions Court, the appellants and respondent no. 2 arrived at a compromise and accordingly Memorandum of Understanding (MOU) dated 22.12.2015 was executed on the basis of which mutual divorce under [Section 28](#) of the Special Marriage Act was granted by the Additional District Judge, Durgapur in Mat. Suit No. 389/2015 on 04.04.2016.

5.The dismissal of the appeal was challenged by filing revision application before the High Court. The High Court vide impugned order dated 12.09.2017 concurred with the findings of the Sessions Court and dismissed the revision petition.

6.As per the appellants, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that respondent no.2 have no grievances whatsoever against the appellants and want both the appellants to get acquitted from the cases. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between them before the court.

7.In the aforesaid circumstances and going by the spirit of the law laid down by this Court in the case of [B.S. Joshi & Ors. V. State of Haryana & Anr.](#), we are of the opinion that the High Court should have accepted the settlement and compounded the offences. It is, more so, when the settlement between the parties, who were husband and wife, was even acted upon as the parties took mutual divorce on that basis.

8.We, accordingly, allow this appeal and set aside the order of conviction passed against the appellants.”



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5.On careful reading of the aforesaid judgment, it is clear that the High Court by invoking revisional power can set aside the conviction on the basis of settlement arrived between the parties in matrimonial disputes. In the case on hand also, the matter has been settled between the parties and mediation report was also enclosed. The aforesaid case law is squarely applicable to the present facts of the case.

6.In view of the aforesaid judgment and settlement arrived between the parties and mediation report was also filed to that effect, this criminal revision petition is allowed and the judgment and conviction passed by the learned Additional District and Sessions Judge/Special Court of EC Act and NDPS Act Cases, Pudukkottai, in Crl.A.No.5 of 2011 dated 09.06.2016 by confirming the judgment and conviction passed by the learned Judicial Magistrate, Aranthangi in C.C.No.76 of 2006 dated 02.09.2010 are hereby set aside and the petitioner is acquitted from the charge under Section 498A of IPC. The petitioner be set at liberty subject to other cases if any. The bail bond if any executed by the petitioner shall stand cancelled. The fine amount already paid by the petitioner shall be refunded forthwith.

14.09.2023

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



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To

- 1.The Additional District and Sessions Judge,
Special Court of EC Act and NDPS Act Cases,
Pudukkottai.
- 2.The Judicial Magistrate, Aranthangi.
- 3.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
- 4.The Section Officer,
Criminal Records,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

Mrn

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