



CrI.R.C.(MD)No.693 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2023

CORAM

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

CrI.R.C.(MD)No.693 of 2016

Chandra

... Petitioner

Vs.

The Inspector of Police,
Economic Wing No.II, P.S,
Madurai.
(in Crime No.2/2005)

... Respondent

PRAYER : Criminal Revision filed under Section 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the Criminal Appeal 16 of 2012 on the file of the 6th Additional District Sessions Judge, Madurai dated 03.08.2016 and to allow the Revision and to set aside the conviction and sentenced passed by the learned 6th Additional District Sessions Judge, Madurai dated 03.08.2016, modified the conviction in respect of 120 (b) IPC towards the petitioner and confirmed the conviction and sentence imposed by the Learned Chief Judicial Magistrate, Madurai in C.C.No.43/2005 dated 28.02.2012.



WEB COPY



Crl.R.C.(MD)No.693 of 2016

For Petitioner : Mr.S.Mohankumar
For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Petition has been filed to set aside the order in Crl.A.No.16 of 2012 dated 03.08.2016 passed by the 6th Additional District Sessions Judge, Madurai modifying the conviction in respect of 120 (b) IPC towards the petitioner and confirming the conviction and sentence imposed by the Learned Chief Judicial Magistrate, Madurai in C.C.No.43 of 2005 dated 28.02.2012.

2.The case of the prosecution is that the petitioner and her husband conducted chit illegally and collected huge amount from the defacto complainant and thereafter, failed to return the amount.



WEB COPY

3.On the basis of the complaint given by the defacto complainant, a case was registered in Cr.No.2 of 2005 and final report also filed in C.C.No.43 of 2005 before the learned Chief Judicial Magistrate, Madurai. On the side of the prosecution, P.W.1 to P.W.10 were examined and marked Ex.P.1 to Ex.P.10. On the side of the accused, no one was examined and no document was marked.

4.On perusal of oral and documentary evidence, the trial Court convicted the accused for the offence punishable under Section 120(b) r/w Section 420, 406 and 420 IPC and sentenced to undergo 2 years rigorous imprisonment for the offence punishable under Section 120(b) r/w Section 420 IPC and sentenced to undergo 2 years rigorous imprisonment for the offence punishable under Section 406 IPC and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.2,500/- in default to undergo one year rigorous imprisonment for the offence punishable under Section 420 IPC. Aggrieved by the same, the accused persons preferred an appeal and the appellate Court acquitted the husband of the petitioner herein and acquitted the petitioner herein for the offence punishable under Section 120(b) IPC and



confirmed the conviction and sentence for the offence punishable under Sections 406 and 420 IPC. Hence, the present revision.

5.While pending this revision, the petitioner and the defacto complainant have settled their issue amicably. They have also produced joint compromise memo, which is read as follows:-

1.The petitioner submits that she had been convicted and sentence imposed for Section 120(B) r/w Section 420 and also for an alleged offence under Section 406 IPC to undergo rigorous imprisonment for two years and also to undergo rigorous imprisonment for three years and to pay a fine of Rs.2,500/- each for an offence under Section 420 of IPC imposed by the learned Chief Judicial Magistrate, Madurai in C.C.No.43 of 2005 dated 28.02.2012 which was confirmed by the Appellate Court in Crl.A.16 of 2012 on the file of the 6th Additional District Sessions Judge, Madurai by order dated 03.08.2016, modified the conviction in respect of 120(b) of IPC towards the petitioner and confirmed the conviction and sentence imposed by the learned Chief Judicial Magistrate, Madurai in C.C.No.43 of 2005 dated 28.02.2012.



2.The petitioner submit that against the order passed by the Additional District Judge, Madurai, the petitioner had preferred this present Criminal Revision Petition in Crl.R.C.No.693 of 2016. When the matter came up for admission on 05.10.2016 this Court directed as follows:

“Sentence is suspended till 07.11.2016 on condition that the petitioner shall deposit Rs.1 Lakh to the credit of Cr.No.2 of 2005”.

In order to comply the order I have duly complied with the orders and further came up for hearing on 07.11.2016 and this Court further granted bail and suspended the sentence as follows:

“9.In view of the fore goings, ordered as under:

(i)Revision bail granted

(ii)Sentence of imprisonment ordered by the Trial Court and modified by the Appellate Court alone is suspended.

(iii)There shall be two sureties and they shall execute a bon for Rs.15,000/-(Rupees fifteen thousand only) each to the satisfaction of the learned Chief Judicial Magistrate, Madurai.

(iv)The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders”



3.As the case relates to deposit of chit funds and the offences are compoundable in nature and now, due to the elders and family members, the petitioner and the defacto complainant have agreed to compromise the matter and settled down the issues amicably. There by the petitioner had settled a sum of Rs.1,50,000/- towards the defacto complainant by cash and a receipt of the same received by the defacto complainant herewith enclosed. The amount deposited in the Cr.No.2 of 2005 may be returned to the petitioner.

4.The petitioner submit that based on the memo this Hon'ble Court may accept the same and set aside the conviction and sentence in C.C.No.43 of 2005 on the file of the learned Chief Judicial Magistrate, Madurai dated 28.02.2012 and confirmed in Crl.A.No.16 of 2012 on the file of the 6th Additional District Sessions Judge, Madurai dated 03.08.2016.

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 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 uneffected 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 between the parties, the conviction and sentence



CrI.R.C.(MD)No.693 of 2016

imposed by both the Courts below is hereby set aside. The petitioner is permitted to withdraw the amount deposited to the credit of Cr.No.2 of 2005 before the learned Chief Judicial Magistrate, Madurai by filing proper application. Accordingly, this criminal revision petition is allowed. The compromise memo shall form part and parcel of this order.

20.03.2023

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



WEB COPY

To



CrI.R.C.(MD)No.693 of 2016

- 1.The 6th Additional District Sessions Judge,
Madurai.
- 2.The Chief Judicial Magistrate
Madurai.
- 3.The Inspector of Police,
Economic Wing No.II, P.S,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD)No.693 of 2016

G.K.ILANTHIRAIYAN,J.

gns

Crl.R.C.(MD)No.693 of 2016

20.03.2023