



CrI.R.C(MD)No.838 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**CrI.R.C(MD)No.838 of 2016
and
CrI.M.P(MD)No.12196 of 2016**

1. Joseph
2. Irudhaya Mary
3. Anthony

... Petitioners/
Appellants/Accused Nos.1 to 3

Vs.

The Sub-Inspector of Police,
District Crime Branch,
Sivagangai.
(Crime No.20 of 1999).

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 and Section 401 of the Code of Criminal Procedure, to call for the records and set aside the order passed by the Mahila Court, Sivagangai, Sivagangai District in C.A.No.3 of 2015, dated 25.11.2016, confirming the conviction and sentence passed by the learned Judicial Magistrate No.2, Sivagangai, Sivagangai District in C.C.No.82 of 2012, dated 22.12.2014 by allowing this revision.

For Petitioners : Mr.R.Senthil Kumar

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)



Crl.R.C(MD)No.838 of 2016

ORDER

WEB COPY

This revision has been filed to set aside the order passed in C.A.No.3 of 2015 by the Mahila Court, Sivagangai, Sivagangai District, dated 25.11.2016, confirming the conviction and sentence passed in C.C.No.82 of 2012 by the learned Judicial Magistrate No.2, Sivagangai, Sivagangai District, dated 22.12.2014.

2.The case of the prosecution is that the petitioners received a sum of Rs.3,40,000/- from the victims in order to get a job at Dubai. However, the petitioners failed to arrange any job and also refused to return the amount, which was collected from them. On the said complaint, the respondent registered the F.I.R in Crime No.20 of 1999 for the offence under Section 420 of I.P.C. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.82 of 2012 on the file of the learned Judicial Magistrate No.2, Sivagangai, Sivagangai District.

3.The prosecution had examined P.W.1 to P.W.8 and marked Exs.P.1 and P.2 and on the side of the accused, no one was examined and no documents were marked.



Crl.R.C(MD)No.838 of 2016

4.On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Section 420 of I.P.C and sentenced Accused Nos.1 and 3 to undergo three years Simple Imprisonment each and to pay a fine of Rs.3,000/- each and in default to undergo one month Simple Imprisonment and sentenced Accused No.2 to undergo two years Simple Imprisonment and to pay a fine of Rs.3,000/- and in default to undergo one month Simple Imprisonment, which was also confirmed by the Appellate Court. Aggrieved by the same, the present Revision.

5.While pending this revision, the petitioners and the defacto complainant/Arumugam amicably settled their issues and also entered into a joint memorandum of compromise, dated 10.04.2023, which reads as follows:-

"We have entered into compromise between ourselves. In pursuant to the compromise made between ourselves, the accused persons issued a Demand Draft for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) in D.D.No.94059, dated 03.04.2023 obtained from Indian Bank, High Court Branch, Madurai. The defacto complainant received the Demand Draft on 10.04.2023 for other victims also.



Crl.R.C(MD)No.838 of 2016

Therefore, it is prayed that this Court may be pleased to record this joint compromise memo filed by the petitioners and second respondent and allow Crl.R.C(MD)No.838 of 2016.”

Therefore, the defacto complainant has no objection to set aside the conviction and sentence imposed on the petitioners by the Courts below.

6.Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that only one victim was settled by the petitioners and in so far as other victims are concerned, they were not settled by the petitioners.

7.The learned counsel appearing for the petitioners would submit that the defacto complainant and 7 others are the victims. The second respondent is a close relative of other victims and on behalf of them, he had received the entire money.

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 C.A.No.3 of 2015 on the file of the Mahila Court, Sivagangai, Sivagangai District, dated 25.11.2016, confirming the conviction and sentence made in C.C.No.82 of 2012 on the file of the learned Judicial Magistrate No.2, Sivagangai, Sivagangai District, dated 22.12.2014, are set aside.



Crl.R.C(MD)No.838 of 2016

10. Accordingly, the Criminal Revision Case is allowed.

Consequently, connected Miscellaneous Petition is closed.

WEB COPY

10.04.2023

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



Crl.R.C(MD)No.838 of 2016

WEB COPY

To

- 1.The Mahila Court,
Sivagangai,
Sivagangai District.
- 2.The Judicial Magistrate No.2,
Sivagangai,
Sivagangai District.
- 3.The Sub-Inspector of Police,
District Crime Branch,
Sivagangai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C(MD)No.838 of 2016

G.K.ILANTHIRAIYAN, J.

ps

Order made in
Crl.R.C(MD)No.838 of 2016

10.04.2023