



Crl.R.C(MD)No.438 of 2018

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 11.04.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

**Crl.R.C(MD)No.438 of 2018**

Fathima Beevi

... Petitioner/  
Appellant/Accused

Vs.

1.Mohammed Appa

2.The State of Tamil Nadu,  
Represented by the Public Prosecutor,  
Nagercoil,  
Kanyakumari District.

... Respondents/  
Respondents/Complainants

**PRAYER:** Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 19.05.2017 made in Crl.A.No.4 of 2013 on the file of the Mahalir Fast Track Court, Nagercoil, modifying S.T.C.No.1131 of 2012 on the file of the Judicial Magistrate No.I, Fast Track Court, Nagercoil, dated 20.12.2012.

For Petitioner : Mr.T.Selvakumaran

For R – 1 : Mr.K.P.Narayana Kumar

For R – 2 : Mr.M.Vaikkam Karunanithi  
Government Advocate (Criminal Side)



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**ORDER**

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This revision has been filed to set aside the order made in Crl.A.No.4 of 2013 on the file of the Mahalir Fast Track Court, Nagercoil, dated 19.05.2017, dismissing the order made in S.T.C.No.1131 of 2012 on the file of the Judicial Magistrate No.I, Fast Track Court, Nagercoil, dated 20.12.2012.

2.The petitioner is an accused and the first respondent is the complainant for the offence punishable under Section 138 of the Negotiable Instruments Act.

3.The case of the prosecution is that the respondent issued a cheque for a sum of Rs.50,000/- in favour of the petitioner. The said cheque was presented for collection and the same was returned for the reason 'funds insufficient'. After causing statutory notice, the first respondent lodged the complaint.

4.On the side of the first respondent, he himself was examined as P.W.1 and also marked Exs.P.1 to P.4 and on the side of the petitioner, she himself was examined as D.W.1 and marked Ex.D.1 to Ex.D.4.



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5. On perusal of the oral and documentary evidence, the trial Court convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months Simple Imprisonment and to pay a sum of Rs.50,000/- as compensation to the first respondent and in default, to undergo one month Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.4 of 2013 on the file of the Mahalir Fast Track Court, Nagercoil and the Appellate Court also dismissed the same confirming the order of the trial Court. Hence, the present revision.

6. While pending this revision, 50% of the cheque amount was settled by the petitioner to the first respondent. Now today, the remaining 50% of the cheque amount was paid to the first respondent. Therefore, the entire cheque amount has been paid as full and final settlement.

7. 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*



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*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*



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*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.*

8.In view of the aforesaid, the judgment made in Crl.A.No.4 of 2013 on the file of the Mahalir Fast Track Court, Nagercoil, dated 19.05.2017, confirming the order made in S.T.C.No.1131 of 2012 on the file of the Judicial Magistrate No.I, Fast Track Court, Nagercoil, dated 20.12.2012, is set aside.



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9. Accordingly, the Criminal Revision Case is allowed. The

first respondent is permitted to withdraw the amount which was already deposited by the petitioner on the file of the trial Court.

**11.04.2023**

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

To

1. The Mahalir Fast Track Court,  
Nagercoil.

2. The Judicial Magistrate No.I,  
Fast Track Court,  
Nagercoil.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**G.K.ILANTHIRAIYAN, J.**

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Order made in  
**Crl.R.C(MD)No.438 of 2018**

**11.04.2023**