



Crl.R.C(MD)No.581 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.581 of 2018

T.Appavu

... Petitioner/
Appellant/Sole Accused

Vs.

Sri Gokulam Chit Funds Private Limited,
Represented by its Assistant Professional Manager,
S.Perumal.

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the Judgment dated 13.06.2018 in Crl.A.No.37 of 2018 on the file of the learned Additional Sessions Judge, Karur, confirming the Judgment of conviction passed in C.C.No.445 of 2013 dated 13.03.2017 on the file of the Fast Track Court at Judicial Magisterial Level, Karur.

For Petitioner : Mr.C.Deepak

For Respondent : Mr.S.Malaikani



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ORDER

This revision has been filed as against the Judgment made in Crl.A.No.37 of 2018, dated 13.06.2018 on the file of the learned Additional Sessions Judge, Karur, confirming the Judgment of conviction passed in C.C.No.445 of 2013, dated 13.03.2017 on the file of the Fast Track Court at Judicial Magisterial Level, Karur.

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

3.The crux of the complaint is that the petitioner was one of the subscribers to the chit conducted by the respondent. He was successful as the highest bidder of the fourth chit. After receipt of the said amount, for the subsequent monthly subscription, he executed a promissory note for the said amount, dated 31.07.2009. However, he defaulted to the tune of Rs.38,152/-. In order to repay the said amount, the petitioner issued cheque and the same was presented for collection. However, the same was returned



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dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent initiated the proceedings under Section 138 of the Negotiable Instruments Act.

4.On the side of the respondent, he had examined P.W.1 and also marked Exs.P.1 to P.8 and on the side of the petitioner, he had not examined any witness and no documents were marked.

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 three months Simple Imprisonment and to pay a fine of Rs. 1,000/-, in default, to undergo 30 days Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.37 of 2018 on the file of the learned Additional Sessions Judge, Karur and the Appellate Court also dismissed the same confirming the conviction and sentence imposed by the trial Court. Hence, the present revision.



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6.The learned counsel appearing for the petitioner would submit that while suspending the sentence, this Court, by order, dated 22.10.2018, directed the petitioner to deposit a sum of Rs.40,000/- to the credit of the trial Court. Accordingly, the petitioner duly complied with the condition imposed by this Court and he has no objection to withdraw the said amount by the respondent.

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;



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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 Crl.A.No.37 of 2018, dated 13.06.2018 on the file of the learned Additional Sessions Judge, Karur, confirming the Judgment of made in C.C.No.445 of 2013, dated 13.03.2017 on the file of the Fast Track Court at Judicial Magisterial Level, Karur is set aside.

10.Accordingly, the Criminal Revision Case is allowed. The petitioner/accused is acquitted. Bail bond if any executed by the petitioner/accused shall stand cancelled and a fine amount if paid is ordered to be refunded to the petitioner/accused forthwith. The respondent is permitted to withdraw the amount which was already deposited by the petitioner on the file of the trial Court by way of



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filing proper application before the trial Court. It is made clear that the trial Court is directed to permit the respondent to withdraw the said amount without ordering notice to the petitioner.

18.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

1.The Additional Sessions Judge,
Karur.

2.The Fast Track Court at Judicial Magisterial Level,
Karur.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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