



Crl.R.C(MD)Nos.630, 631 & 632 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)Nos.630, 631 & 632 of 2018

and

Crl.M.P(MD)Nos.9675, 9676 & 9677 of 2018

Babulal Surana

... Petitioner/
Appellant/
Accused in all Cr.R.Cs'

Vs.

T.P.Selvarayan (deceased)

1.Thomasrayan

2.Rajamani

3.Jacquelyn

... Respondents/
Respondents/
Complainants in all Crl.R.Cs'

COMMON PRAYER: Criminal Revision Cases filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed by the I Additional District and Sessions Judge, Tirunelveli in Crl.A.Nos.129, 130 & 131 of 2015, dated 19.01.2018 in C.C.Nos.316, 236 and 237 of 2006 on the file of the learned Judicial Magistrate, Valliyur, dated 25.11.2015 and to allow this revision.

For Petitioner : Mr.V.Ramamurthy

For Respondents : Mr.S.Palani Velayutham



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COMMON ORDER

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These revisions have been filed to set aside the order passed in Crl.A.Nos.129, 130 & 131 of 2015, dated 19.01.2018, on the file of the I Additional District and Sessions Judge, Tirunelveli, confirming the order passed in C.C.Nos.316, 236 and 237 of 2006, dated 25.11.2015, on the file of the learned Judicial Magistrate, Valliyur.

2.The petitioner is an accused in the complaint lodged by the deceased T.P.Selvarayan for the offence punishable under Section 138 of the Negotiable Instruments Act.

3.The deceased T.P.Selvarayan lodged the complaint alleging that the petitioner borrowed a sum of Rs.40,00,000/- as a loan and in order to repay the said amount, he issued three cheques. All the cheques were presented for collection and the same was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the deceased T.P.Selvarayan lodged the complaint.



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4.Before the trial Court, while pending trial, T.P.Selvarayan died. Hence, respondents 1 to 3 were brought on record as legal representatives of the deceased T.P.Selvarayan.

5.On the side of the respondents, they had examined P.W.1 and P.W.2 and also marked Exs.P.1 to P.19 and on the side of the petitioner, he had examined D.W.1 and D.W.2 and marked Ex.D. 1 to Ex.D.3 and the Court also marked Ex.X.1 to Ex.X.3.

6.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 in all three cases and awarded compensation to the tune of doubling the cheque amount in all three cases. Aggrieved by the same, the petitioner preferred appeals in Crl.A.Nos.129, 130 & 131 of 2015 on the file of the I Additional District and Sessions Judge, Tirunelveli and the Appellate Court also dismissed the same confirming the conviction and sentence imposed by the trial Court. Hence, the present revisions.



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7.The learned counsel appearing for the petitioner would submit that while suspending the sentence, this Court, by order, dated 23.11.2018 imposed a condition to the petitioner to deposit the cheque amounts in all three revisions. Accordingly, the petitioner duly complied with the condition imposed by this Court and also permitted the respondents to withdraw the same. Accordingly, the respondents had also withdrawn the entire cheque amount. They were also satisfied with the cheque amount which was already deposited and subsequently withdrawn by them and settled their issues amicably.

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



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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 aforesaid 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.

9.In view of the aforesaid, the Judgment passed in Crl.A.Nos.129, 130 & 131 of 2015, dated 19.01.2018, on the file of the I Additional District and Sessions Judge, Tirunelveli, confirming the order passed in C.C.Nos.316, 236 and 237 of 2006, dated 25.11.2015, on the file of the learned Judicial Magistrate, Valliyur, is set aside.



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10. Accordingly, these Criminal Revision Cases are allowed. The petitioner/accused in all the cases 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. Consequently, the connected Miscellaneous Petitions are closed.

18.04.2023

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

1. The I Additional District and Sessions Judge,
Tirunelveli.

2. The Judicial Magistrate,
Valliyur.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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