



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 13.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C. (MD) No.182 of 2009

Jailani ... Petitioner/Appellant/Single Accused

Vs.

Dilsath Begum ... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., against the conviction and sentence passed by the Additional District and Sessions Judge (FTC), Dindigul in C.A.No.78 of 2008 dated 2205.2009 confirming the conviction and sentence passed by the Judicial Magistrate No.3, Dindigul in C.C.No.135 of 2006 dated 27.11.2008 sentencing the petitioner to undergo 6 months simple imprisonment and to pay a compensation of a sum of Rs.60,000/- (Rupees sixty thousand only) within two month in default to undergo 2 months simple imprisonment for the offence under Sections 138 and 142 of Negotiable Instruments Act.

For Petitioner : (*)Mr.M.Rajarajan

For Respondent : Mr.C.M.Arumugam

ORDER

This Criminal Revision Petition has been filed against the order passed in C.A.No.78 of 2008 dated 2205.2009 on the file of the Additional District and Sessions Judge (FTC), Dindigul confirming the conviction and sentence passed by the Judicial Magistrate No.3, Dindigul in C.C.No.135 of 2006 dated 27.11.2008 thereby convicted the petitioner for the offence under Sections 138 and 142 of Negotiable Instruments Act and sentenced him to undergo 6 months simple imprisonment and to pay a compensation of a sum of Rs.60,000/- (Rupees sixty thousand only) within two month in default to undergo 2 months simple imprisonment.

2. During pendency of this revision, the parties have settled the entire issue arising out of Section 138 of Negotiable

<https://www.mhc.tn.gov.in/judis>



Instruments Act before mediation and conciliation centre to this Court.

3. On a perusal of the settlement agreement arrived at between the parties, it is seen that the amount involved in the cheque was settled by the petitioner and the same was received by the respondent as full and final settlement. 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 ill-will 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.

4. In view of the above and the settlement arrived at between the parties, the judgment of conviction and sentence passed in C.A.No.78 of 2008 dated 22.05.2009 on the file of the Additional District and Sessions Judge (FTC), Dindigul confirming the conviction and sentence passed by the Judicial Magistrate No.3, Dindigul in C.C.No.135 of 2006 dated 27.11.2008 is set aside and the petitioner is acquitted for the offence under Sections 138 and 142 of Negotiable Instruments Act. The agreement of settlement arrived at between the parties shall form part of this order.



5. In fine, this Criminal Revision Petition is allowed.

Sd/-

Assistant Registrar (Admin I)

(*) Corrected as per the order dated
10.04.2023 by GKJ.

Sd/-

Assistant Registrar (Admin I)

// True Copy //

/03/2023

Sub Assistant Registrar (CO)

CM

Encl: Xerox copy of Settlement Agreement
To

**To be substituted to the order which is already despatched on
05/04/2023**

1. The Judicial Magistrate No.3, Dindigul

2. The Additional District and Sessions Judge (FTC), Dindigul

3. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.K.M.MOHAMMED ALI, Advocate (SR-14906[F] dated
14/03/2023)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-15103[F] dated 14/03/2023
)

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VA/ (29.03.2023) 4P 7C

MK/ (24.04.2023) 4P 7C