



Crl.R.C.(MD)No.589 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2023

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.589 of 2009

Murugesan

... Petitioner

Vs.

1.The State by
The Inspector of Police,
Vallam Police Station,
Thanjavur District.
In Crime No.114 of 2007

2.Durai

... Respondents

(R2 impleaded as per order of this Court in Crl.M.P.(MD)No.4793 of 2023 in Crl.R.C.(MD)No.589 of 2009 dated 28.03.2023)

PRAYER : Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records pertaining to the judgement and conviction passed by the learned I Additional Sessions Judge (Protection of Civil Rights), Thanjavur in C.A.No.84 of 2008 dated 26.10.2009 confirming the judgment and conviction passed by the learned Judicial Magistrate No.2, Thanjavur in C.C.No.274 of 2007

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dated 17.10.2008 convicting the petitioner for the alleged offence under Section 326 IPC and sentenced him to undergo 1 year rigorous imprisonment and imposed to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and set aside the same.

For Petitioner : Mr.A.Senthil Kumar
For R1 : Mr.K.Sanjai Gandhi,
Government Advocate(Crl.side)
For R2 : Mr.G.Manikandan

ORDER

This Criminal Revision has been filed to set aside the judgement and conviction passed by the learned I Additional Sessions Judge (Protection of Civil Rights), Thanjavur in C.A.No.84 of 2008 dated 26.10.2009 confirming the judgment and conviction passed by the learned Judicial Magistrate No.2, Thanjavur in C.C.No.274 of 2007 dated 17.10.2008.

2.While pending revision, the parties entered into compromise and they have settled the issue amicably. The parties also filed a petition to



compound the offence on the ground of compromise. The compromise memo reads as follows:-

1.It is submitted that based on the complaint given by the 2nd party herein, a case was registered against the 1st party in Crime No.117/2007 U/s 294(b), 323, 324 IPC dated 14.05.2007 and further charge sheet was filed and taken on file as C.C.No.274/2007 by the JM-2 Thanjavur and who passed the judgment and conviction of 1 year rigorous imprisonment and to pay fine of Rs.500/- in default to undergo one month simple imprisonment dated 17.10.2008 the same was confirmed by the I Additional Sessions Judge (Protection of Civil Rights) Thanjavur in C.C.No.84 of 2008 dated 26.10.2009. Aggrieved over the same the petitioner 1-party filed revision same is pending before this hon'ble court.

2.It is submitted that due to the intervention of elders and friends, an amicable settlement has been arrived between the petitioner/1st party and the defacto complainant/2nd party and in accordance with the same; an agreement deed for compromise was executed between both the parties with some conditions and settlements, between the parties civil suit also pending in which both the party taking steps to file compromise memo before the court concern.



3.It is submitted that both parties have no claims or counter claims against each other's and both of them are ready and willing to withdraw the allegations against each others.

4.The 2nd respondent/Defacto complainant is ready and willing to withdraw all criminal proceedings against the petitioner/1st party. Hence the 2nd respondent/defacto complainant/2nd party has no objection for allowing the Crl.R.C.(MD)No.589 of 2009 which is pending before this hon'ble court by compounding the offence.

3.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 sum up 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



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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.

4.In view of the above decision of the Hon'ble Supreme Court and the compromise entered between the parties, the conviction and sentence imposed by both the Courts below is hereby set aside. Accordingly, this criminal revision petition is allowed. The compromise memo shall form part and parcel of this order.

28.03.2023

Index : Yes / No
Internet : Yes / No
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G.K.ILANTHIRAIYAN,J.



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To

- 1.The I Additional Sessions Judge (Protection of Civil Rights),
Thanjavur.
- 2.The Judicial Magistrate No.2, Thanjavur
- 3.The Inspector of Police,
Vallam Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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