



CRL.A. No.424/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 01.08.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. A. NO. 424 OF 2022

1. Selvaseeman
2. Rajkamal
3. Jagadeesan
4. Kuppusamy
5. Naveenraj
6. Karthik
7. Madan
8. Thulasi
9. Sudhakar
10. Alexandar
11. Irusan

.. Appellants

- Vs -

State, rep. by
Inspector of Police
Mylam Police Station
Villupuram District.

.. Respondent

Criminal Appeal filed u/s 374 (2) Cr.P.C. praying this Court to call for the records made in S.C. No.38 of 2019 on the file of the II Addl. District & Sessions Judge, Villupuram @ Tindivanam and set aside the same as illegal.



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For Appellants : Mr. R.Sankarasubbu

For Respondent : Ms. G.V.Kasthuri

JUDGMENT

The present appeal has been directed against the conviction and sentence dated 29.03.2022 passed by the learned II Addl. District & Sessions Judge, Villupuram @ Tindivanam, in S.C. No.38/2019.

2. The appellants were charged and tried for various offences under the Indian Penal Code and after trial, the trial court found the appellants guilty of the offences u/s 148 r/w 109 IPC, 148, 323 and 341 IPC and sentenced them to imprisonment for varying terms along with fine against which the present appeal has been filed by the appellants.

3. When the case is taken up for hearing, learned counsel appearing for the appellants submitted that the offences for which the conviction and sentence were imposed are compoundable and, therefore, pending the appeal the appellants and the victims, against whom hurt have been caused, have entered into a joint compromise and, therefore, this Court may



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compound the offence in terms of the memo of joint compromise entered into between the appellants and the victims.

4. Learned Addl. Public Prosecutor appearing for the respondents fairly submits that the offences for which the appellants have been convicted and sentenced are compoundable and, therefore, this Court may compound the sentences based on the joint compromise entered into between the appellants and the victims.

5. The victims Prabu (P.W.2), Santhosh (P.W.18) and Mathivanan (P.W.19), who are the injured witnesses are present in Court and they have been identified as the victims by Mr.P.Tamilarasan, Special Sub Inspector of Police, Maiylam Police Station (Mobile No.94981-53556). This Court enquired the victims, who admitted that they have entered into a compromise with the appellants and have filed the joint compromise memo and submitted that in view of the compromise, the victims have no objection for compounding the offence.



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6. The Apex Court, in **Gian Singh – Vs – State of Punjab & Anr. (2012**

(10) SCC 303) has held that the High Court is clothed with power to compound such of the offences, which have been specified as non-compoundable offences under the provisions of Section 320 of the Code. The relevant portion of the said decision is quoted hereunder :-

“48. A five-Judge Bench of the Punjab and Haryana High Court in Kulwinder Singh – Vs – State of Punjab (2007 (4) CTC 769) was called upon to determine, inter alia the question whether the High Court has the power under Section 482 of the Code to quash the criminal proceedings or allow the compounding of the offences in the cases which have been specified as non-compoundable offences under the provisions of Section 320 of the Code. The five-Judge Bench referred to quite a few decisions of this Court including the decisions in adhu Kimaye, Bhajan Lal, L.Muniswamy, Simrikhia, B.S. Joshi and Ram Lal and framed the following guidelines :-

** * * * **

(d) Minor offences as under Section 279 IPC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet another offence which remains non-compoundable is Section 506 (II) IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under 506 IPC in most cases is based on the oral declaration with different shades of



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intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148 IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act 17 of 1999 (Section 3) has made Section 506 (II) IPC, 147 IPC and 148 IPC compoundable offences by amending the schedule under Section 320 Cr.P.C.

* * * * *

7. Insofar as the compoundability of the offence u/s 323 and 341 IPC are concerned, Section 320 Cr.P.C. provides for compounding of offences and for the offence u/s 323 and 341 IPC, the same are is compoundable by the person to whom the hurt is caused/restrained/confined. In the present case, the victims, who are the person, who were caused hurt/confined/restrained by the appellants, have, on their own volition, come forward to enter into the compromise and they have shown their willingness to compound the offence and in such a scenario, there could be no impediment for this court to compound the offences u/s 323 and 341 IPC.

8. Further, it is to be pointed out that when the offence in the set of offences, which is substantive is compoundable, it goes without saying that



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the other offences are also compoundable and, therefore, applying the above decision to the case on hand, the victims and the appellants having entered into a legitimate joint compromise and have also filed a memo to the said effect, recording the said memo of compromise entered into between the victims and the appellants, the offences for which the appellants have been convicted and sentenced are compounded in terms of the joint memo.

9. Accordingly, the conviction and sentence imposed on the appellants are compounded in view of the joint memo of compromise entered into between the parties and, therefore, the appeal is allowed in terms of the aforesaid joint compromise. The sentence imposed on the appellants are hereby set aside. The joint memo of compromise as also the identification proof of the victims, filed before this Court, shall form part of the records.

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To

1. II Addl. District & Sessions Judge

Villupuram @ Tindivanam.

2. Inspector of Police

Mylam Police Station

Villupuram District.

3. The Public Prosecutor

High Court, Madras.



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M.DHANDAPANI, J.

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