



CRL.P No. 7649 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 7649 OF 2022

BETWEEN:

SMT. LAKSHMIBAI

...PETITIONER

(BY SRI. CHANDRASHEKARA K.A., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY THE POLICE OF
KUMSI POLICE STATION,
SHIVAMOGGA DISTRICT – 577 225
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.
2. SMT.KAMALIBAI

Digitally signed by
PADMAVATHI B K
Location: HIGH
COURT OF
KARNATAKA



CRL.P No. 7649 of 2022

...RESPONDENTS

(BY SRI K.S.ABHIJITH, HCGP FOR R1;
SRI PARAMESH M.D., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO PERMIT THEM TO COMPOUND THE OFFENCE P/U/S 36, 448 OF IPC AND QUASH THE JUDGMENT AND ORDER DATED 23.09.2011 PASSED BY THE LEARNED II ADDL. CIVIL JUDGE AND JMFC, SHIVAMOGGA IN C.C.NO.1109/2010 AND CONFIRMED BY THE LEARNED SESSIONS JUDGE I FTC, SHIVAMOGGA DATED 21.06.2012 IN CRL.A.NO.140/2011 AND MODIFIED BY THIS HONBLE COURT IN CRL.RP.NO.753/2012 VIDE ORDER DATED 29.03.2022 FOR AN OFFENCE P/U/S 326, 448 OF IPC.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

A complaint is registered by the 2nd respondent against the petitioner for offences punishable under Sections 504, 326 and 448 of the IPC in crime No.309/2009. This petition is preferred by the petitioner seeking to quash the order dated 23.09.2011 passed by the learned Magistrate, Shimoga in C.C.No.1109/2010 by permitting the parties to compound the offences so alleged against the petitioner.

2. The learned Magistrate, Shimoga in C.C.No.1109/2010 by his order dated 23.09.2011 convicted the petitioner for



CRL.P No. 7649 of 2022

offences punishable under Sections 326 and 448 of the IPC. The said order of conviction was affirmed by the learned Sessions Judge in Crl.A.No.140/2011 by his order dated 21.06.2012 and this Court in Crl.R.P.No.753/2012 affirmed the order of conviction while partly modifying the sentence imposed on the petitioner.

3. During the pendency of these proceedings, it transpires that the parties to the *lis* have entered into a settlement and have filed an application seeking compounding of the offences so made against the petitioner. The relevant portion of the application reads as follows:

"10. The material on record clearly shows in particular the Ex P-4, the evidence of Pw-1 and Pw-5 Dr.H.S.Chandrappa clearly shows that injured Pw-1 had sustained injury on her left hand i.e., non-vital part of the body, no severe injury was caused to attract the offence punishable under section 326 IPC.

11. In view of the settlement so arrived, the Respondent No.2 herein has no objection to allow this petition to quash the judgment and order dated 23/09/2011 passed by the Learned II Addl., Civil Judge and JMFC., at Shimogga in C.C.No.1109/2010 and confirmed by the Learned I First Tract Court, Shivamogga dated 21/06/2012 in CRL.A.No.140/2011 for offence punishable under sections 326 and 448 IPC and acquit the petitioner in the above case by



CRL.P No. 7649 of 2022

permitting the parties to compound the offences allowing this application.

12. *The Respondent No 2 i.e., Pw-1/ Informant-Victim Smt KamliBai herein entered to this compromise on her own will and volition. There is no threat or coercion by anybody.*
13. *If this Hon'ble Court is not pleased to permit the parties to compound the above case, they will suffer irreparable loss and great hardship."*

4. The issue with regard to whether compromise can be arrived at between the parties post conviction and the Court exercising jurisdiction under Section 482 of the Cr.P.C. can entertain such compromise and close the proceedings despite conviction is answered by the Apex Court in the case of **RAMGOPAL AND ANOTHER v. STATE OF MADHYA PRADESH** reported in **2021 SCC OnLine 834**, wherein the Apex Court holds as follows:

"13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due



regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. **The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh v. State of Punjab and Laxmi Narayan (Supra).**

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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."**

(Emphasis supplied)



CRL.P No. 7649 of 2022

The Apex Court, right from the year 2003 in the case of **B.S.JOSHI V. STATE OF HARYANA** reported in **(2003)4 SCC 675** which is subsequently followed by the Apex Court in the case of **NIKHIL MERCHANT V. CENTRAL BUREAU OF INVESTIGATION** reported in **(2008)9 SCC 677** and in the case of **MANOJ SHARMA V. STATE AND OTHERS** reported in **(2008)16 SCC 1** has considered the fact that post conviction, a settlement can be accepted and proceedings can be obliterated by the Court, hearing a petition under Section 482 of the Cr.P.C.

5. In the light of the judgments so rendered by the Apex Court which all concern the issue whether the matter could be settled or compromised between the parties post conviction wherein the Apex Court has permitted such compromise to be recorded post conviction by a Court exercising jurisdiction under Section 482 of the Cr.P.C. and quashed the proceedings and also in view of the facts obtaining in the case at hand, I deem it appropriate to accept the compromise so filed and set aside the order of conviction passed against the petitioner.



CRL.P No. 7649 of 2022

6. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) Impugned order dated 23.09.2011 passed by the learned II Additional Civil Judge and JMFC, Shimoga in C.C.No.1109/2010 stands quashed.

Consequently, I.A.No.1/2022 stands disposed.

**Sd/-
JUDGE**

BKP