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Crl.A.No.857 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2026

CORAM:

THE HON'BLE MR.JUSTICE **M.NIRMAL KUMAR**

Crl.A.No.857 of 2026

Rajendhiran

...Appellant

Vs.

1. State rep. by,
The Inspector of Police,
Thiyagadurgam Police Station,
Thiyagadurgam, Kallakurichi District.

2. Sakthivel

3. Rangarajan

...Respondents

Criminal Appeal filed under Section 378(4) of Cr.P.C. r/w. 419 of BNSS, 2023, seeking to set aside the judgment of acquittal of the Respondents / Accused in C.C.No.17 of 2023 dated 28.08.2025 passed by the learned Judicial Magistrate No.II, Kallakurichi.

For Appellant : Mr.C.Samivel

For Respondents : Mr.Durai Gunasekaran, GA(Crl. Side)
Assisted by Mr.Arul Raj

JUDGMENT

This criminal appeal has been filed seeking quashment of the judgment of acquittal of the 2nd and 3rd respondents / accused passed by

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the learned Judicial Magistrate No.II, Kallakurichi in C.C.No.17 of 2023

dated 28.08.2025.

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2. The brief facts necessary for disposal of this appeal are as follows:

2.1 The appellant/complainant lodged a complaint before Thiyyadurgam Police Station on 21.10.2021 and subsequently, on 26.11.2021, the appellant filed a petition u/s. 156(3) of Cr.P.C. before the learned Judicial Magistrate No.II, Kallakurichi seeking to direct the S.H.O. Thiyyadurgam Police Station to register FIR upon his complaint and the said petition was numbered as C.M.P.No.1491 of 2022 and after hearing the parties and perusal of records, the trial court, vide order dated 03.01.2022, allowed the said petition and forwarded the complaint to the 1st respondent-police for investigation.

2.2 Pursuant to the same, an FIR in Crime No.110 of 2022 came to be registered for the offences u/s. 294(b), 506(1) and 420 of IPC and after completion of investigation, the respondent-police referred the case as 'mistake of fact' and filed a Final Report on 17.11.2022. Subsequently, RCS notice was also served on the complainant on 21.12.2022 bearing RCS.No.20 of 2022. Aggrieved by the same, on 24.01.2023, the appellant filed a protest petition and the trial court treated the protest petition as



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private complaint and proceeded further and took cognizance of the offence under section 420 IPC and took the case on file in C.C.No.17 of 2023 and issued summons to both the accused.

2.3 During trial, the appellant/complainant examined himself as P.W.1 and examined two other witnesses viz., P.W.2 and P.W.3 and marked Exs.C1 to C4 and on the side of the defence, D.W.1 was examined and no documents were marked.

2.4 After completion of trial, the trial court, vide impugned judgment dated 28.08.2025, dismissed the said complaint and acquitted the respondents 2 and 3. Aggrieved by the same, the appellant/complainant filed the present appeal before this Court.

3. Learned counsel for the appellant made the following submissions:-

3.1 Initially the appeal was not entertained by the Registry of this Court and returned the papers citing the order of this Court dated 30.06.2025 passed in Crl.O.P.Nos.27089 & 27094 of 2024 in Crl.A.SR.Nos.49576 & 59577 of 2024.

3.2 However, the said order pertains to a case filed for the offence under Section 138 of the Negotiable Instruments Act and not under Section 420 of IPC and therefore, the same is not applicable to the



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case in hand and thereby, re-presented the appeal papers. However, not being satisfied with the reasons stated by the appellant, the Registry, though numbered the case, post the same under the caption 'for maintainability'.

3.3 Hence, the learned counsel, reiterating the above facts submitted that the citation relied on by the Registry of this Court is not applicable to this case as the same pertains to Section 138 of NI Act.

4. Heard the learned counsel for the appellant and perused the materials on record, particularly, the returns made by the Registry and the order of this Court dated 30.06.2025.

5. When this Court directed the learned counsel for the appellant to once again go through the order of this Court dated 30.06.2025, particularly the last portion of the paragraph No.6 of the said order, the learned counsel for the appellant fairly submitted that as per Proviso to Section 372 of Cr.P.C./413 of BNSS, from 07.07.2025, *the appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.*



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6. In the present case, the order of acquittal has been passed by the learned Judicial Magistrate No.II, Kallakurichi. Hence, the appeal can be filed only before the Sessions Court, Kallakurichi.

7. In response, the learned counsel for the appellant sought for a direction of this Court to the Registry to return the appeal papers, enabling him to present the same before the concerned jurisdictional Sessions court.

8. In view of the above, Registry is directed to return the appeal papers to the learned counsel for the appellant, enabling him present the same before the jurisdictional Court concerned.

9. The jurisdictional court concerned shall not insist upon/raise objection with regard to the period of limitation, if any, and shall entertain the appeal to be filed by the appellant, if it is otherwise in order, as per proviso to Section 470 of Cr.P.C.



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10. With the above observations and directions, this criminal appeal stands closed.

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NCC : Yes/No

To:

1. The Judicial Magistrate No.II,
Kallakurichi.
2. The Inspector of Police,
Thiyagadurgam Police Station,
Thiyagadurgam, Kallakurichi District.
3. The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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