

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.9.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 895 of 2013

K.Muthusamy

...Petitioner

Versus

1. Kathiresan
2. Mathiyalagan
3. M.Sundaram
4. Pandiyan
5. Subash
6. R.Jothi Kumar
7. Ajithsingh
8. Muthukumaralingam

...Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the dismissal of the Private Complaint filed by the petitioner prosecuting respondents/accused under Section 147, 341, 379, 420, 468, 471, 409 and 506 (ii) IPC. in C.C.No.231 of 2012 dated 28.2.2013 on the file of the Judicial Magistrate No.II, Tirupur.

For Petitioner : Mr. K.Elangovan

For R1 and R7 : Mr. G.Vikraman

For R2 to R6 : Ms. Sudharshana Sunder

ORDER

When the matter is taken up for hearing today, the learned counsel on either side would submit that as against the order dated 28.2.2013 passed by the Judicial Magistrate No.II, Tirupur, only appeal would lie in view of the amendment made to Section 372 of the Criminal Procedure Code, which came into effect from 31.12.2009 and erroneously the revision petitioner has filed this revision and the same is kept pending before this Court from the year 2013. Accordingly, the learned counsel for the revision petitioner would only pray this Court to direct the District Court to entertain the appeal to be filed by the petitioner with a petition to condone the delay in preferring the said appeal.

2. Learned counsel appearing for the respondents has expressed no objection for such course of action.

3. Having regard to the submissions made on either side and in view of the insertion of proviso to Section 372 of Cr.P.C. by the Criminal Procedure Code (Amendment) Act, 2008 (5 of 2009) with effect from 31.12.2009, which reads as follows:

"372. No appeal to lie unless otherwise provided.-- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

Amendment Act, 2008.-- Clause 29 amends section 372 of the Code relating to appeals from judgment or order of a Criminal Court. It gives to the victim the right to prefer an appeal against any adverse order passed by the trial Court"

and in view of the fact that as against the order passed by the trial court only appeal would lie, this Criminal Revision Case is dismissed. However, the petitioner is given liberty to file an appeal before the appropriate forum viz., District Court, as the petitioner is given the right to prefer an appeal against the order passed by the Trial Court after insertion of the proviso to Section 372 of Cr.P.C. by the Criminal Procedure Code (Amendment) Act, 2008 (5 of 2009) with effect from 31.12.2009. When liberty is given by this Court, the Appellate Court shall take into consideration that the petitioner is entitled to get the period of limitation to be excluded during which the Criminal Revision Case is pending before this Court.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ga

Note:

Office is directed to return back the originals, if any, to the petitioner's counsel after retaining xerox copy in the bundle.

To

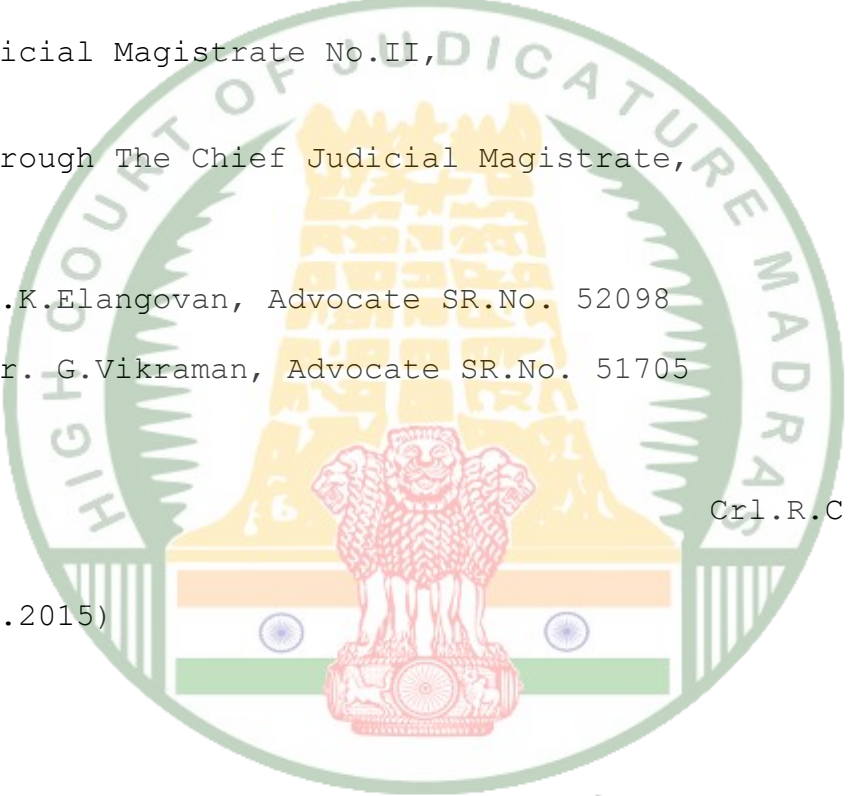
1. The Judicial Magistrate No.II, Tirupur.
2. -Do- Through The Chief Judicial Magistrate, Tirupur.

1 CC to Mr.K.Elangovan, Advocate SR.No. 52098

2 CCs to Mr. G.Vikraman, Advocate SR.No. 51705

VD (CO)
PSI (07.10.2015)

CrI.R.C. No.895 of 2013



सत्यमेव जयते

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