



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Cr1.A.(MD)NO.96 of 2015

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Esakkimuthu

..Appellant/Complainant

Vs.

1.Murugaiah
2.Bagavathi
3.Kathariyan Dassan
4.Jabamalai @ Solaimalai
5.Murugan
6.Sankaran

..Respondents/Accused

Prayer: Criminal Appeal filed under Section 378 Cr.P.C. against the judgment passed in C.C.No.205 of 2011 dated 19.07.2013 by the Judicial Magistrate Court, Valliyoor.

For Petitioner :: Mr.P.Senthurpandian

JUDGMENT

The appellant is the Complainant in C.C.No.205 of 2011 on the file of the Judicial Magistrate, Valliyoor. The respondents are the accused in that case. The appellant had filed the said case by way of private complaint alleging that the accused have allegedly committed the offences punishable under Sections 147, 148, 294(b) and 506(ii) IPC. The learned Judicial Magistrate, Valliyoor, took cognizance of the offences and issued summons to the accused.

2. On the appearance of the accused, witnesses were examined by the complainant by following the procedure for trial of warrant cases. Thereafter, the trial Court by order dated 19.07.2013 discharged the accused, as there were no grounds to proceed further. Against the same, the appellant has come up with this appeal.

3. This appeal has come up for admission today.

4. I have heard the learned counsel for the appellant and also perused the records carefully.

5. At the outset, when the learned counsel was asked to explain as to how the appeal is maintainable as against the order of discharge, the learned counsel for the appellant submitted that under Section 378 Cr.P.C., the complainant has got right of appeal. In my considered opinion, the said submission is not correct. Section 378 Cr.P.c. deals with the right of appeal against acquittal. Here what is under challenge is an order of discharge, as against which, there is no appeal provided in the Code. An appeal is a statutory right provided under a statute. Here in this case, since there is no right of appeal provided under the Code of Criminal Procedure, I hold that this appeal is not at all maintainable.



6. In the result, the Criminal Appeal is dismissed as not maintainable. However, I would like to clarify that the dismissal of this appeal shall not be a bar for the appellant to work out his remedy in the manner known to law.

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/True copy/

Sd/-
Assistant Registrar

Sub Assistant Registrar

To
The Judicial Magistrate
Valliyoor.

Copy to: The Section Officer, ER Section,
 Madurai Bench of Madras High Court, Madurai.
 (To returned original impugned order)

+1CC to M/s.P.Senthurpandian, Advocate in SR.17122

Cr1.A.(MD)NO.96 of 2015
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rr.
PBK 17/04/2015 ::2P-4C: