

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

(Orders Reserved on : 22.09.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.1219 of 2015

and

Crl.M.P.Nos.1 and 2 of 2015

S.N.Syed Naser Petitioner/Accused

Vs.

1.V.Ramanathan

2.The State,

Rep. By the Public Prosecutor,

Namakkal.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, praying to call for the records in judgment dated 27.02.2015 in Criminal Appeal No.31 of 2013 on the file of the learned Additional District and Sessions Judge, Namakkal, confirming the judgment of conviction dated 26.07.2013 made in S.T.C.No.303 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Tiruchengode and set aside the same.

For Petitioner : Mr.P.Saravana Sowmiyan

For 1st

Respondent

: No Appearance

For 2nd

Respondent

: Ms.M.F.Shabana,

Government Advocate (Crl.Side)

ORDER

This criminal revision case is directed against the judgment dated 27.02.2015 passed by the learned Additional District and Sessions Judge, Namakkal, in Crl.A.No.31 of 2013 confirming the judgment passed in S.T.C.No.303 of 2012 by the learned Judicial Magistrate (Fast Track Court (Magisterial Level), Tiruchengode and set aside the same.

2. The learned counsel appearing for the revision petitioner mainly contended that the learned appellate judge without considering the evidence and probabilities of the case, dismissed the appeal. He has further contended that the first appellate Court without assigning any valid and cogent reasons in convicted the accused and it failed to give independent findings in respect of the grounds raised by the petitioner and also failed to give opportunity to the revision petitioner to argue the appeal on merits. He further submitted that the learned appellate judge without applying his mind, mechanically confirmed the conviction and sentenced imposed by the learned trial Judge on the revision petitioner. Hence, the learned counsel prayed that the orders passed by the Courts below may be set aside and the criminal revision has to be allowed.

3. The learned Government Advocate (Crl.Side) contended that there is no infirmity or illegality in the judgments of the Courts below. Hence, the criminal revision case has to be dismissed.

4. Heard the submissions made by the learned counsel appearing for the revision petitioner and the learned Government Advocate (Crl.side) appearing for the second respondent and perused the records. Despite service of notice and printing the name of the first respondent in the cause list, there is no representation for him.

5. It is useful to refer the Judgement dated 27.02.2105 passed in Criminal Appeal No.31 of 2013 and the same reads as follows:

JUDGMENT

"This Appeal is filed U/s.374 (3) of Cr.Pc to order to set aside the judgment dated 26.07.2013 passed by the Judicial Magistrate of Fast Track Court, Tiruchengode in STC No.303/2012 and acquit the appellant/accused. सत्यमेव जयते

"The appeal is posted for reporting settlement. In spite of several adjournments settlement not reported. Both parties called absent, No representation. Hence, the appeal is dismissed for default. Intimate the Trial Court to secure the Accused and proceed as per Judgment of the Trial Court. "

Pronounced by me in open Court, this the 27th day of February 2015."

6. On a perusal of the above judgment, it is seen that since both the parties were called absent and there was no representation for both sides, the learned appellate judge

dismissed the appeal. Except that no reason was given by the learned appellate judge for confirming the judgment of the trial Court.

7. In this case, the revision petitioner preferred the criminal appeal before the first appellate Court. Parties were not present. In such circumstances, the first appellate Court has to decide the matter on merits by giving valid reasons. But, instead of doing so, the first appellate Court, simply confirmed the order passed by the trial Court. Hence, this Court is of the considered view that the judgment passed by the learned appellate judge has to be set aside and the matter has to be remanded to the first appellate Court for settlement or for disposal in accordance with law.

8. In the result, the order passed in Criminal Appeal No.31 of 2013 by the learned Additional District and Sessions Judge, Namakkal is set aside and the Criminal Revision Case is allowed. The matter is remanded to the learned Additional District and Sessions Judge, Namakkal and the learned Appellate Judge is directed to dispose the appeal in accordance with law after giving opportunity to both sides within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

cla

To

1. The Additional District and Sessions Judge,
Namakkal.
2. The Judicial Magistrate
(Fast Track Court, (Magisterial Level),
Thiruchengode.

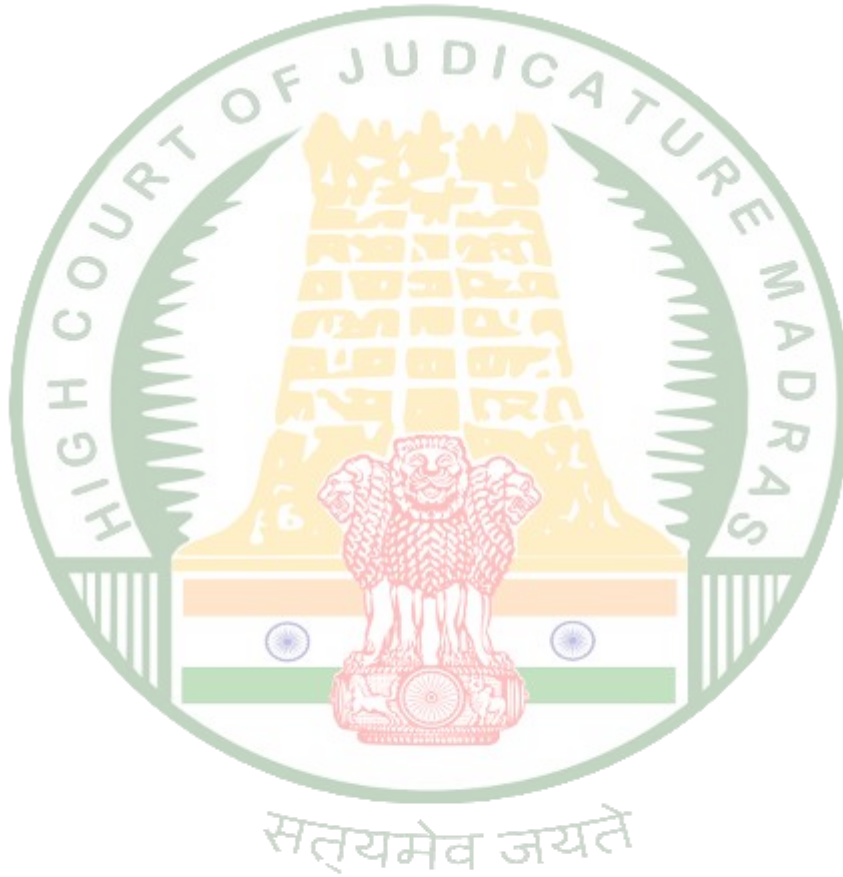
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3. The Public Prosecutor,
High Court, Madras.

+lcc to M/S.P.Saravana Sowmiyan, Advocate Sr.60761

Cr1.R.C.No.1219 of 2015

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