

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1367 of 2016

and

Crl.M.P.No.12112 and 12113 of 2016

K.Alagumalai

.. Petitioner

vs.

State by

The Inspector of Police,
Namakkal Police Station,
Namakkal,

Namakkal District.

(Crime No.740 of 2014)

.. Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. to set aside the order dated 15.06.2016 passed in C.A.No.21 of 2015 on the file of Principal Sessions Judge, Namakkal confirming the sentence dt.24.4.15 made in S.C.No.21 of 2014, on the file of the Additional Assistant Sessions Judge, (Trainee District Judge), Namakkal.

For Petitioner : M/s.C.Prakasam

For Respondent : Mr.K.Madhan

Government Advocate (Crl.side)

O R D E R

This revision challenges the order of learned Principal Sessions Judge, Namakkal, passed in C.A.No.21 of 2015 on 15.06.2016.

2. Petitioner was convicted for offence u/s.326 IPC by learned Additional Assistant Sessions Judge, Namakkal, under judgment in S.C.No.21 of 2014 dated 24.04.2015. Against such finding, petitioner preferred C.A.No.21 of 2015 on the file of learned Principal Sessions Judge, Namakkal, which came to be dismissed for default on 15.06.2016. Challenging such judgment, the present revision has been filed.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

4. In the decision of this Court reported in MANU/TN/4341/2010 [Appellants:Suresh Babu Vs. Respondent:State], it has been held thus:

"5. This matter relates to administration of criminal justice. As held by this Court, a criminal matter cannot be dismissed for default and it must be decided on merits.

6. Time and again, the Supreme Court and this Court has held that once the appeal is filed, the Appellate Court cannot dismiss the appeal for default or non prosecution. Even if the appellant is found absent continuously, the Appellate Court should engage a counsel appointed by legal aid cell and Court must take utmost care to go through the records and find out whether there are any merits in the case."

5. Accordingly, the Criminal Revision Case is allowed. The judgment in C.A.No.21 of 2015 dated 15.06.2016 passed by learned Principal Sessions Judge, Namakkal, dismissing the appeal for default is set aside. The matter is remitted back to the Principal Sessions Judge, Namakkal, for fresh hearing and disposal. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Principal Sessions Judge, Namakkal.
- 2.The Additional Assistant Sessions Judge, Namakkal.
- 3.The Inspector of Police, Namakkal Police Station, Namakkal, Namakkal District.

+1 cc to Mr.C.Prakasam,advocate,sr.68451

vd(co)
krd 28/12

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