

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.08.2016

Coram:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.17475 of 2016

M/s.Susee Tractors
by its Authorized Agent/Manager,
R.V.Chakravarthy,
D.No.269, Chittoor High Road,
Katpadi, Vellore - 632 007.

... Petitioner

Vs.

D.Subramanian

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 07.04.2016 passed in Crl.R.C.No.26 of 2012, on the file of the First Additional District and Sessions Judge, Vellore, Vellore District and the judgment dated 10.04.2012, passed in C.C.No.376 of 2011, on the file of the Judicial Magistrate (Fast Track Court), Vellore.

For Petitioner

: Ms.V. Jothi Lakshmi

ORDER

This Criminal Original Petition has been filed to set aside the order dated 07.04.2016 passed in Crl.R.C.No.26 of 2012, on the file of the First Additional District and Sessions Judge, Vellore, Vellore District and the judgment dated 10.04.2012, passed in C.C.No.376 of 2011, on the file of the Judicial Magistrate (Fast Track Court), Vellore.

2. Heard the learned counsel appearing for the petitioner.

3. The petitioner lodged a prosecution in C.C.No.376 of 2011 against the respondent before the Judicial Magistrate, Fast Track Court, Vellore, for offence under Section 138 of the Negotiable Instrument Act. The trial Court convicted and sentenced the respondent by judgment dated 10.04.2012 in C.C.No.376 of 2011. Aggrieved by the conviction and sentenced, the respondent filed Criminal Appeal No.85 of 2012 before the First Additional District and Sessions Judge, Vellore. Aggrieved by the quantum of sentence imposed by the trial Court, the petitioner filed Crl.R.C.No.26 of 2012 before the First Additional District

and Sessions Judge, Vellore. The First Additional District and Sessions Judge, Vellore heard C.A.No.85 of 2012 and allowed the same on 07.04.2016 by setting aside the judgment of the trial Court and acquitted the respondent/accused. Pursuant to that, the First Additional District and Sessions Judge, dismissed CrI.R.C.No.26 of 2012 that was filed by the petitioner for enhancement of sentence.

4. Admittedly, the petitioner has filed an appeal against the acquittal before this Court, aggrieved by the judgment dated 07.04.2016 passed by the First Additional District and Sessions Judge, Vellore, in C.A.No.85 of 2012. While so, the petitioner has filed the present petition under Section 482 Cr.P.C against the order dated 07.04.2016 passed by the First Additional District and Sessions Judge, Vellore, in CrI.R.C.No.26 of 2012.

5. The fact remains that both the CrI.A.85 of 2012 and CrI.R.C.No.26 of 2012 were heard by the same Court and CrI.A.85 of 2012 was allowed and the respondent /accused was acquitted.

6. Under such circumstances, the petition for enhancement of sentence filed by the petitioner in CrI.R.C.No.26 of 2012 had necessarily to be dismissed. Thus, there is no infirmity in the order passed by the First Additional and District Sessions Judge, Vellore in CrI.R.C.No.26 of 2012 warranting interference by this Court under Section 482 Cr.P.C. Hence, the criminal original petition is dismissed as devoid of merits.

ub/sms

09.08.2016

To

1. The First Additional District and Sessions Judge, Vellore, Vellore District.
2. The Judicial Magistrate (Fast Track Court), Vellore.

P.N.PRAKASH, J

sms

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