

Crl.O.P.No.18862 of 2016
in
Crl.A.SR.No.18089 of 2016

M.VENUGOPAL,J.,

Heard Mr.T.Balaji, Learned counsel for the
Petitioner/Appellant/Complainant.

2.It comes to be known that notice sent through Court was served on the Respondent. Also that private notice taken by the Petitioner was served on the Respondent on 10.10.2016.

3.Today, when the matter is come up for hearing, there is no representation on the side of the Respondent either in person or through Learned counsel. Since service of notice through Court and privately was served on the Respondent, this Court holds service as sufficient one.

4.The Petitioner/Appellant has filed the instant Crl.O.P.No.18862 of 2016 before this Court seeking 'Grant of Special Leave' to prefer the Crl.A.SR.18089 of 2016 (as an aggrieved person) as against the judgment of 'Acquittal' dated

21.01.2016 in S.T.C.No.91 of 2015 on the file of the Learned Judicial Magistrate (FTC) No.II, Erode.

5.The Learned counsel for the Petitioner/Appellant/Complainant urges before this Court that the Petitioner/Appellant could not appear before the trial Court because of his inability and on his behalf, the Learned counsel filed a petition to condone his absence on 21.01.2016. But the said petition was dismissed by the trial Court on an erroneous view, which resulted in 'Acquittal' of the Respondent/Accused, which is per se not correct in the eye of Law.

6.Also, it is the stand of the Petitioner/Appellant that P.W.1 was not cross examined on the Respondent/Accused's side and further that, the Respondent/Accused was examined under Section 313(1)(b) of Cr.P.C., on 12.06.2015. Under such circumstance, without considering the available evidence on record, the trial Court had adopted a short cut method in dismissing the S.T.C.No.91 of 2015 which is illegal in the eye of Law.

7. Taking into note of the fact that the Petitioner has raised some arguable points which require detail rumination in the hands of this Court at an appropriate time, for the present, this Court grants 'Special Leave' to prefer an Appeal. Accordingly, the criminal Original Petition is allowed.

04.11.2016

Index: Yes
Internet: Yes

DP

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