

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2017

CORAM

THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

Crl.O.P. No.619 of 2017
in Crl.A.SR.No.39429 of 2016

S.Nanthakumar

.. Petitioner

versus

G.Manoharan

.. Respondent

PRAYER : Criminal Original Petition filed under Section 378 (4) Cr.P.C. to grant leave for filing the Criminal Appeal before this Court against the order passed in C.C.No.1455 of 2012 on the file of the Fast Track Court-I, Metropolitan Magistrate Court, Egmore at Allikulam, Chennai - 3.

For Petitioner : Mr.C.V.Kumar

For Respondent : No Appearance

ORDER

The petition has been filed by the petitioner seeking to grant leave to the petitioner to file an appeal against acquittal dated 28.06.2016 in C.C.No.1455 of 2012 on the file of the Fast Track Court-I, Metropolitan Magistrate Court, Egmore.

2. The complainant in C.C.No.1455 of 2012 is the petitioner. The complaint has been filed under Section 200 Cr.P.C. for the offence under Section 138 of the Negotiable Instruments Act. It is seen from the judgment of the Trial Court that on account of non-appearance of the accused, a Bailable Warrant was issued. The complaint was dismissed on 28.06.2016 under Sections 256(1) and 204(4) of Cr.P.C. Aggrieved by the judgment of the Trial Court, the petitioner, who intended to prefer an appeal filed the present petition seeking leave to file an appeal.

3. The learned counsel appearing for the petitioner would submit that the Trial Court has dismissed the complaint on the ground that the petitioner was not present. He would further submit that the petitioner was unable to appear before the Trial Court on 28.06.2016, as no notice has been served on him.

4. Despite notice, the respondent has not turned up. His name is also printed in the cause list.

5. I have perused the grounds of appeal and the judgment of the Trial Court. The petitioner raised several points of fact and law. It appears that 28.06.2016 was not the day appointed for the appearance of the accused and the case was also not posted for hearing on that date. Pending execution of the Bailable Warrant, the complaint was dismissed and the accused was acquitted.

In these circumstances and keeping in mind, the right of the victim to prefer an appeal under the proviso to Section 372 Cr.P.C. I am inclined to grant leave to the petitioner.

6. In the result, the Criminal Original Petition is allowed.

08.08.2017

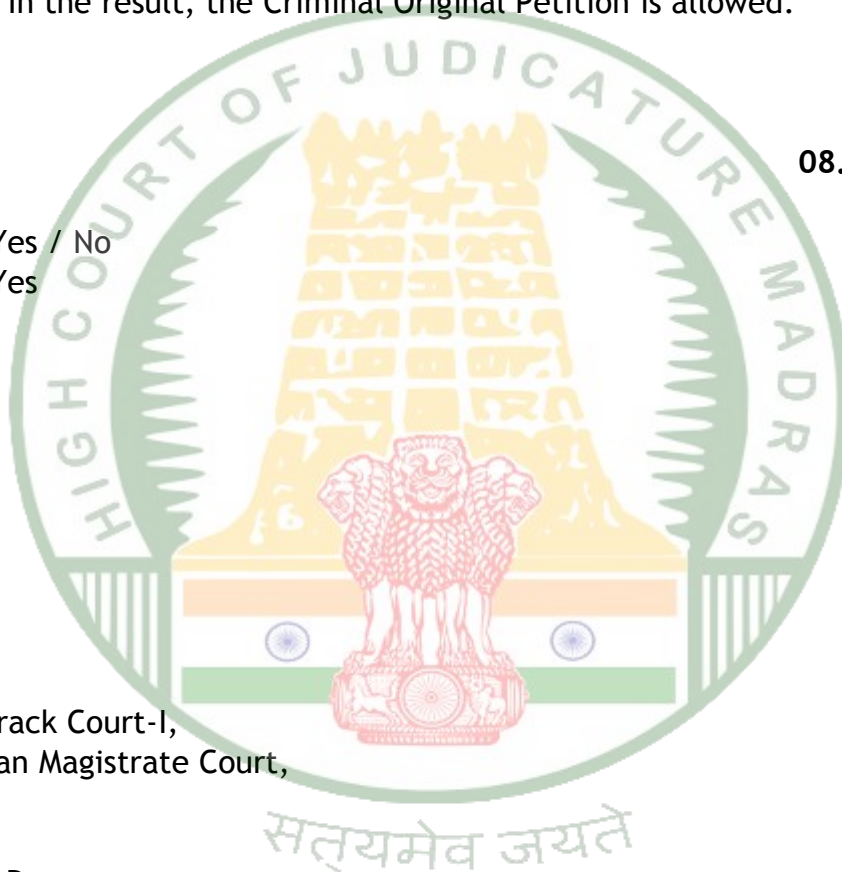
Index : Yes / No
Internet : Yes

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To

1.The Fast Track Court-I,
Metropolitan Magistrate Court,
Egmore.

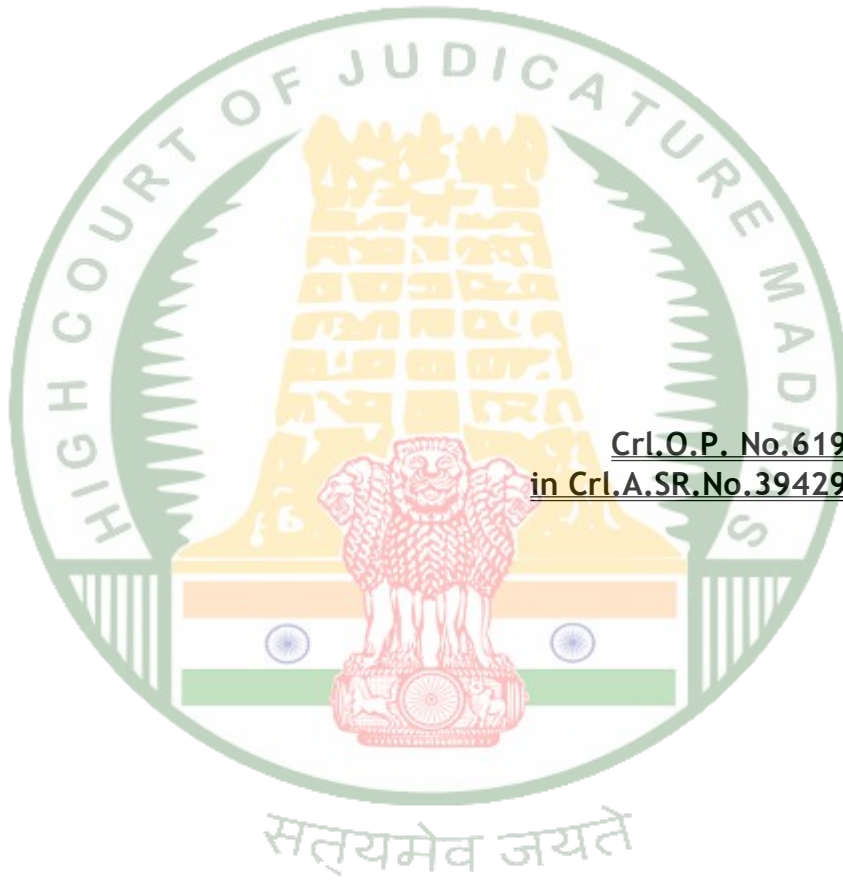
2.The Public Prosecutor,
High Court, Madras.



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N.AUTHINATHAN, J.

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