

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM:

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

Crl.A.Nos.558 & 559 of 2012

Mr.E.M.Radhakrishnan
Son of Munusamy and father
of Late R.Arun

...Appellant
(in both Crl.Appeals)

Vs.

Mr.Justin Devadoss
Proprietor
M/s.JBJ City Developers
Plot No.1742, I Floor, 18th Main Road,
B-Portion, Anna Nagar,
Chennai-600 040.

..Respondent
(in both Crl.Appeals)

Criminal Appeal Nos. 558 & 559 of 2012 filed under Section 378 of the Code of Criminal Procedure Code, to set aside the judgment acquitting the accused made in C.C.Nos.3865 of 2009 & 4575 of 2009 respectively, dated 22.06.2012 on the file of the learned V Metropolitan Magistrate, Egmore.

For Appellant : Mr.G.Karthikeyan
(in both Crl.Appeals)

COMMON JUDGMENT

One Arun initiated two prosecutions viz., C.C.Nos.3865 of 2009 & 4575 of 2009 against Justin Devadoss / accused, under Section 138 of the Negotiable Instruments Act, before the learned V Metropolitan Magistrate, Chennai.

2. During the pendency of the prosecutions, Arun died on 05.04.2010. The trial Court waited for two years for the legal representatives of Arun to file substitution petitions. Since no substitution petitions were filed, the trial Court dismissed both the complaints, by individual orders dated 22.06.2012, aggrieved by which, Radhakrishnan, father of late Arun has filed the present appeals against the acquittals.

3. It is the case of the appellant that a memo was filed in each appeal before the trial Court on 06.10.2010, seeking permission to file the substitution petitions, but the same was not considered by the trial Court. A copy of the said memo has been enclosed in page No.6 of the typed set of papers, which reads as follows:-

"It is humbly submitted to state that the above Complainant Mr.R.Arun has expired suddenly due to heart attack at Vellore and the copy of the FIR No.223 of 2010 is appended herewith for updating and registering the Court records.

Hence, it is therefore prayed that this Hon'ble Court may be pleased to permit the complainant to file a substitution petition and pass orders based on the documents submitted and thus render justice.

Dated at Chennai, this, the 6th day of October 2010."

4. In the opinion of this Court, there was no necessity to file

such a memo and instead, Radhakrishnan could have filed the substitution petition straightaway. The trial Court had awaited two years and only thereafter, had dismissed the complaints. This Court does not find any infirmity in the orders passed by the trial Court, warranting interference and accordingly, these appeals stand dismissed.

13.12.2017

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To

1. The learned V Metropolitan Magistrate,
Egmore.

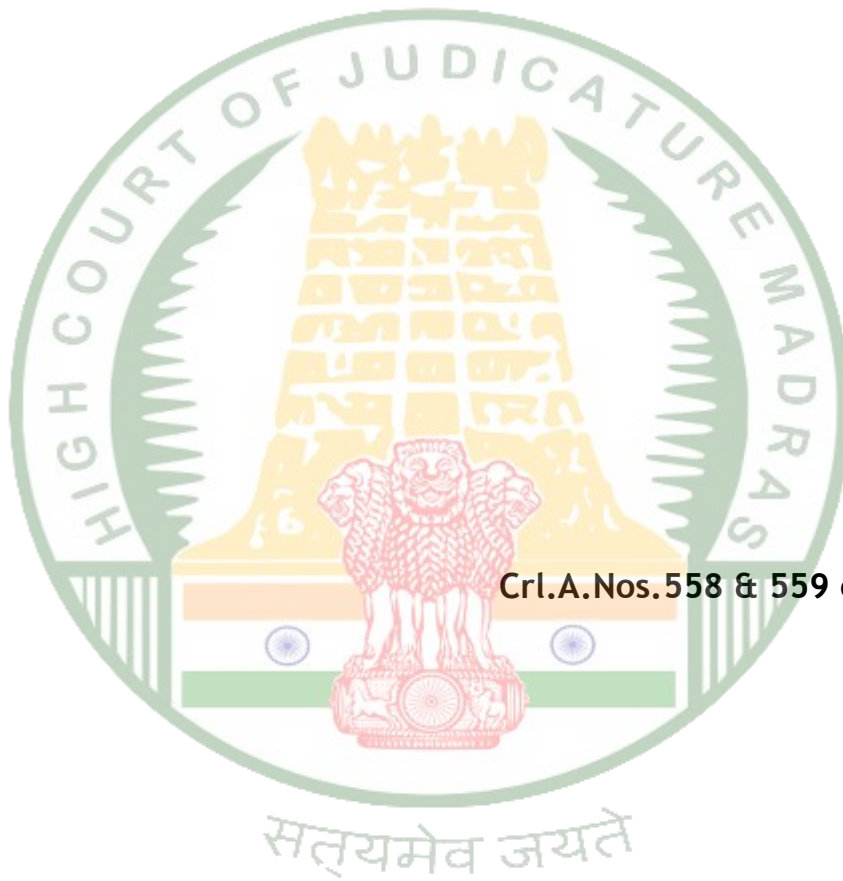
2. The Section Officer
V.R. Section
High Court, Madras.

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P.N.PRAKASH, J.

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