

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM:

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

Crl.A.No.560 of 2012

Mrs.M.R.Jayanthi
Wife of Mr.S.Shankar
No.3, 3rd Cross Street
Suresh Nagar, Porur
Chennai-600 116.

...Appellant

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

Criminal Appeal filed under Section 378 of the Code of Criminal Procedure Code, to set aside the judgment acquitting the accused made in C.C.No.636 of 2010 dated 22.06.2012 on the file of the learned V Metropolitan Magistrate, Egmore.

For Appellant : Mr.G.Karthikeyan

J U D G M E N T

One M.R.Jayanthi, appointed R.Arun as her Power Agent and on the strength of the Power of Attorney, R.Arun initiated a prosecution in C.C.No.636 of 2010 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 prosecution, Arun died on 05.04.2010. The trial Court waited two years for M.R.Jayanthi either to appear before the trial Court or to appoint some other person in the place of Arun to represent her before the trial Court. When this did not happen for two years, the trial Court dismissed the complaint in C.C.No.636 of 2010 on 22.06.2012, challenging which, Jayanthi has filed the present appeal against the acquittal.

3. It is the case of Jayanthi that she filed a memo dated 06.10.2010 before the trial Court, seeking permission to file the substitution petition, but, however, the trial Court had not considered the same. A copy of the 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 Poewr of Attorney holder 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 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, because Arun was not the complainant and he was only the Power Agent of the complainant-M.R.Jayanthi. Mrs.M.R.Jayanthi could have gone to the trial Court herself and appeared or could have appointed someone else as her Power Agent to appear before the trial Court, which she did not do for two years. Therefore, this Court does not find any infirmity in the order passed by the trial Court warranting interference.

5. In the result, this Criminal Appeal is dismissed.

सत्यमेव जयते

13.12.2017

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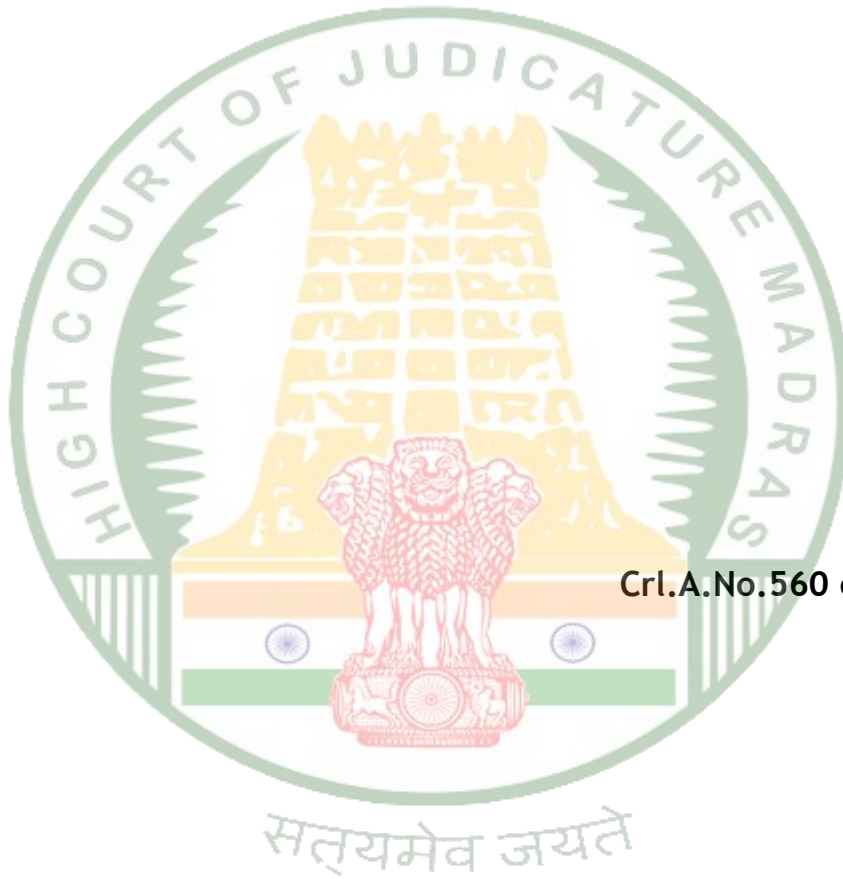
To

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1. The learned V Metropolitan Magistrate,
Egmore.
2. The Section Officer
V.R. Section
High Court, Madras.

P.N.PRAKASH, J.

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