

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM:

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

Crl.A.651 of 2016

Padminni

..Appellant

Vs.

1.M.R.Shankar,
2.E.Baskar,
3.Rajagopal

..Respondents

Criminal Appeal filed under Section 378 (4) of the Code of Criminal Procedure against the judgment and acquittal made in C.C.No.5100 of 2009 dated 13.12.2011 on the file of the XIV Metropolitan Magistrate Court, Egmore and set aside the same.

For Appellant : Mr.V.K.Sathiamurthy
For Respondents : Mr.R.Abdul Mubeen

J U D G M E N T

For the sake of convenience, the appellant and the respondents are referred to as complainant and accused.

2. The complainant initiated prosecution in C.C.No.5100 of 2009 before the XIV Metropolitan Magistrate, Egmore, Chennai for the offences under

Sections 341,353 and 506(ii) IPC against the accused by way of a private complaint. By judgment dated 13.12.2011 in C.C.No.5100 of 2009, the learned XIV Metropolitan Magistrate, Egmore acquitted the accused. Aggrieved by the acquittal, the complainant preferred Crl.A.No.229 of 2013 before the Sessions Court, Chennai, which was made over to the I Additional Sessions Court, Chennai, where it was heard.

3. The learned appellate Judge, by judgment dated 19.03.2015 held that the appeal is not maintainable before the Sessions Court and that it should be preferred only before the High Court. Saying so, he passed the following order:

"16. In the result, it is ordered to return this appeal on the hands of the appellant with an instruction to file the appeal before the Hon'ble High Court u/s 378(4) Cr.P.C. within 30 days from the date of this order."

Hence, the complainant/appellant has filed the present appeal before this Court.

4. During the pendency of this appeal, a Full Bench of this Court in ***S.Ganapathy Vs. N. Senthilvel [(2016) 3 MLJ (Crl) 641 (FB)]*** has held that a private complainant is also a victim within the meaning of Section 372 Cr.P.C. and therefore, he will be entitled to file an appeal against acquittal before the Sessions Court.

5. In view of the said judgment, the Registry is directed to transmit all the papers to the Principal District and Sessions Judge, Chennai, within a period of four weeks from the date of receipt of a copy of this order, after retaining the photo copies of the papers on file.

6. The complainant and the accused shall appear before the Principal District and Sessions Judge, Chennai, on 07.11.2017 at 10.30 a.m.

With the above direction, this criminal appeal is disposed of.

05.10.2017

kyl/gms

NOTE TO OFFICE: Issue by 06.10.2017

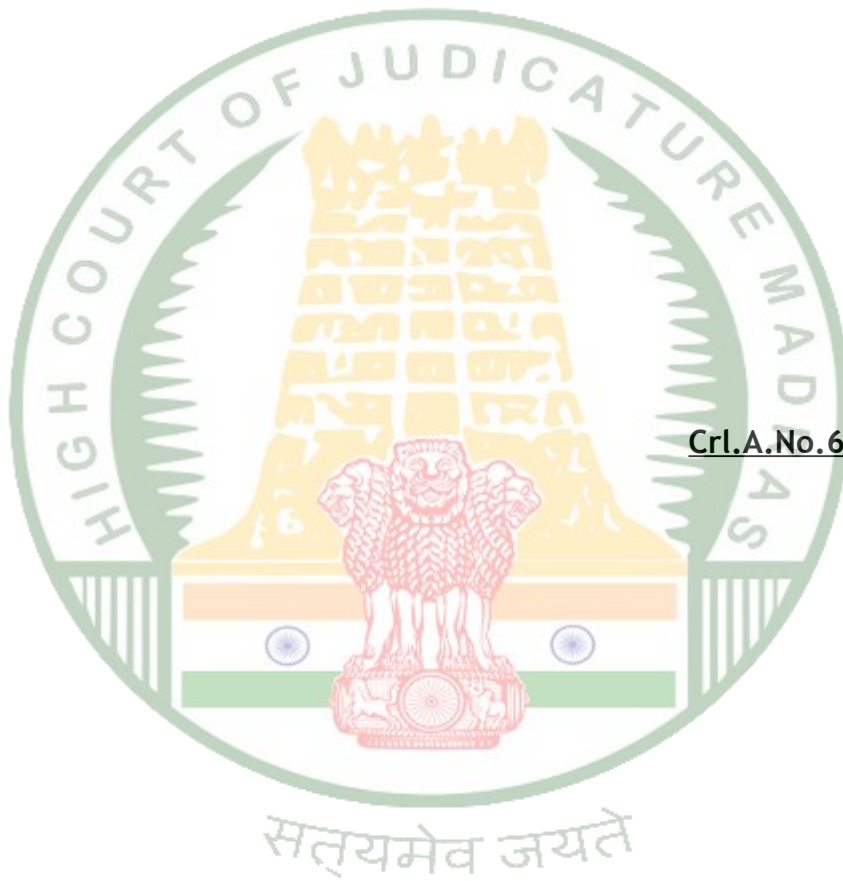
To

1. The Principal District and Sessions Judge, Chennai
2. XIV Metropolitan Magistrate Court, Egmore, Chennai.

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P.N.PRAKASH, J.

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