



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.A(MD).No.375 of 2017

WEB COPY

Tmt.Kamalam

... Appellant / Complainant

Vs.

1.Thiru.Rajamohan

2.Thiru.Palanisamy @ Mylappuran Chettiar

3.Thiru.Subramanian

4.Tmt.Samiyathal

... Respondents/Accused 1 to 4

Prayer: Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the order dated 02.06.2017 in C.C.No.23 of 2005 on the file of the District Munsif cum Judicial Magistrate, Vedasanthur.

For Appellant : Mr.H.Lakshmi Shankar

For Respondents : Mr.S.Anand Chandrasekar
for M/S.Sarvabhauman Associates

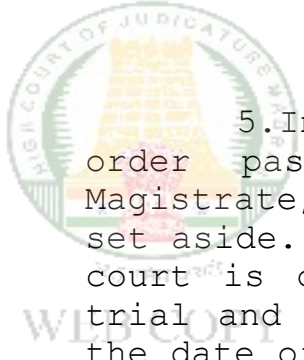
JUDGMENT

Challenging the order acquitting the accused under Section 256 Cr.P.C, the present criminal appeal has been filed.

2.I have heard Mr.H.Lakshmi Shankar, learned counsel appearing for the appellant and Mr.S.Anand Chandrasekar, learned counsel appearing for the respondents and perused the records carefully.

3.The learned counsel appearing for the appellant would contend that the trial in C.C.No.23 of 2005 has already been commenced and 5 witnesses have been examined and on 02.06.2017, the appellant was ill and bed-ridden, hence, she did not appear before the Court. The accused were also not present. Under the said circumstances, for non-appearance of the appellant, the trial court acquitted the accused. According to the petitioner, her non-appearance is not wilful and it is *bonafide* and to that effect, a medical certificate was also produced before the Court.

4.Considering the fact that the petitioner was absent for only one hearing and it is due to *bonafide* reasons, I am inclined to set aside the order passed by the court below.



5. In the result, this criminal appeal is allowed. The order passed by the learned District Munsif cum Judicial Magistrate, Vedasanthur in C.C.No.23 of 2005, dated 02.06.2017 is set aside. Since the calendar case is of the year 2005, the trial court is directed to restore the criminal and proceed with the trial and complete the same within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The learned District Munsif cum Judicial Magistrate,
Vedasanthur.

2.-Do-Thro The Chief Judicial Magistrate, Dindugal District.

+1cc to M/S.H.LAKSHMI SHANKAR, Advocate SR.No.80062

vs

MAS/KP/SAR2:05.10.2017:2P-4C

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