



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.03.2017

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.R.C.(MD)No. 164 of 2017

Syed Akbar

... Petitioner/Accused No.3

Vs.

The Inspector of Police,
CBCID (Counterfeit Currency Wing),
Madurai. Crime No.1 of 2009

... Respondent/Complainant

Prayer: Petition filed under Sections 397 & 401 of Criminal Procedure Code, to call for the records and set aside the docket order passed by the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur in Crl.M.P.No.3736 of 2016 on 21.06.2016.

For Petitioner : Mr.G.Marimuthu
For Respondents : Mr.Kannithevan, G.A..(Crl.side)

O R D E R

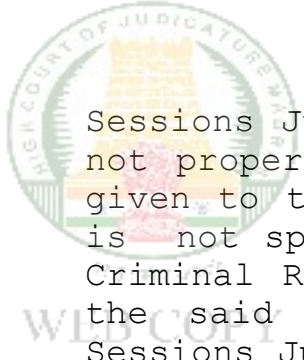
This Criminal Revision case is filed to set aside the docket order dated 21.06.2016 in Crl.M.P.No.3736 of 2016 passed by the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent.

3.The accused is arrayed as A3 in the case in S.C.No.152 of 2012 on the file of Assistant Sessions Court, Virudhunagar and the said accused was convicted on 23.02.2016 and now, he is in jail. Thereafter, the accused preferred an appeal against the judgment before the Principal Sessions Court, Virudhunagar District at Srivilliputtur. The wife of the said accused filed an application in Crl.M.P.No.3736 of 2016 for condoning the delay of 89 days in preferring the appeal by the said accused, since the accused is in custody. The learned Principle Sessions Judge, after giving notice to the learned Public Prosecutor, has taken up the matter for hearing on 21.06.2016 for filling counter by the learned Public Prosecutor and because of the absence of the petitioner, who is wife of the accused, the said petition was dismissed for default on 21.06.2016.

<https://hcservices.ecourts.gov.in/hcservices/>

4.A perusal of the order passed by the learned Principle



Sessions Judge reveals the fact that the reasons for dismissal is not properly dealt with by Sessions Judge and no opportunity was given to the petitioner or to the accused, who is in jail and it is not speaking order. Aggrieved by the said order, the present Criminal Revision case is filed by the accused for setting aside the said order of dismissal passed by the learned Principal Sessions Judge, Virudhunagar.

5.Mr.P.Kannithevan, learned Government Advocate (Crl.side) takes notice for the respondent and he submitted that he has no objection to set aside the order passed by the court below, since the said order is not passed on merits and requested this Court to remand the matter back to the concerned Court for fresh disposal on merits.

6.The learned counsel for the petitioner also agreed for same.

7.Considering the facts and circumstances of the case and also considering the order passed by the learned Principal Sessions Judge and without going into the merits of the case, this Court is inclined to allow this Criminal Revision Case.

8.Accordingly, this Criminal Revision Case is allowed, setting aside the order dated 21.06.2016 passed in Crl.M.P.No.3636 of 2016 by the learned Principle Sessions Judge, Virudhunagar District at Srivilliputhur and the matter is remanded back to the concerned Court for fresh disposal on merits after giving opportunity to both sides.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Virudhunagar at Srivilliputhur.
2. The Inspector of Police,
CBCID (Counterfeit Currency Wing),
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.G.MARIMUTHU, ADVOCATE IN SR No. 15841

NBJ