



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.R.C. (MD)No.832 of 2017

and Crl.M.P. (MD)No.10270 of 2017

Mariappan ... Petitioner/Appellant/Sole Accused

Vs.

State represented by the
Sub Inspector of Police,
Appaiyanaickenpatti P.S.
Viruthunagar District. ... Respondent/Complainant

PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order of dismissal of an appeal dated 07.02.2015 in C.A.No.33 of 2008 on the file of the learned Principal Sessions Judge, Viruthunagar District in Srivilliputhur confirming the order of conviction dated 11.02.2008 in C.C.No.41 of 2006 passed by the learned Judicial Magistrate No.I of Sattur to undergo 12 months Simple Imprisonment for each count and to pay a fine of Rs.1,000/- for each count (Total fine of Rs.2,000/-) and in default to undergo 3 months simple imprisonment for the offence punishable under Section 324(2) Counts of IPC and allow this Criminal Revision in Crl.R.C. (MD)No.832 of 2017.

For Petitioner : Mr.V.Sasikumar

For Respondent : Mr.T.Mohan, Additional Public Prosecutor

ORDER

This Criminal Revision petition has been filed to set aside the order of dismissal of the appeal dated 07.02.2015 passed in C.A.No.33 of 2008 by the learned Principal Sessions Judge, Viruthunagar District in Srivilliputhur, confirming the order of conviction dated 11.02.2008 passed in C.C.No.41 of 2006 by the learned Judicial Magistrate No.I of Sattur.

2.The learned counsel for the petitioner is present. Mr.T.Mohan, APP takes notice for the respondent herein.

3.The learned counsel for the petitioner submitted that the Trial Court has convicted the petitioner to undergo 12 months S.I. and to pay a fine of Rs.1,000/- for each count (Total fine is Rs.2,000/-) and in default to undergo 3 months S.I. for the offence punishable under Section 324(2) of IPC. Against that order of conviction, the petitioner has preferred an appeal before the Principal Sessions Judge, Virudhunagr at Srivilliputhur in C.A.No.33



of 2008 and the learned Principal Sessions Judge without going into the merits of the appeal has dismissed the appeal in the absence of the petitioner/accused. Aggrieved by the order of Appellate Court, this revision is preferred by the petitioner/accused.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that after disposal of the said appeal, the petitioner was arrested and now he is in custody.

5.The learned counsel for the petitioner relied on a decision reported in **(2015) 1 Supreme Court Cases (Cri) 313 (Surya Baksh Singh Vs.State of Uttar Pradesh)**, in which, the Hon'ble Supreme Court has held that appeal should not be dismissed for non-appearance of the counsel and also without going to the merits of the case.

6.Considering the above facts and circumstances of the case, this Court is inclined to remand back the appeal in C.A.No.33 of 2008 to the learned Principal Sessions Judge, Viruthunagar District in Srivilliputhur, to consider the appeal on merits. Accordingly, the appeal in C.A.No.33 of 2008 is remanded back to the learned Principal Sessions Judge, Viruthunagar District in Srivilliputhur for fresh disposal, after hearing both sides and consider the same on merits without any further delay. the learned Principal Sessions Judge is further directed to consider the suspension of sentence petition, if any filed by the petitioner.

7.This Criminal Revision Case is ordered, accordingly. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RECORD)

/True Copy/

Sub Assistant Registrar

To

1.The Principal Sessions Judge,
Virudhunagar District at Srivilliputhur.

2.The Sub Inspector of Police,
Appaiyanaickenpatti P.S.
Viruthunagar District.

Copy to : The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s. V.SASI KUMAR Advocate in SR. No. 86751

GNS

JS/SKN.RSK/SAR.4/21.11.2017/2P-5C

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