



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:13.09.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.A(MD).Nos. 51 and 386 of 2010

and

Crl.A.(MD).Nos.37, 56, 165, 167, 191, 222 and 228 of 2013

and

Crl.A.(MD).Nos.56 and 90 of 2015

and

Crl.O.P.(MD).No.12392 of 2010

in Crl.A.(MD).No.386 of 2010

CRL A(MD) NO.51/2010:

PRATHABAN

..APPELLANT/COMPLAINANT

-Vs-

1.JEEVAMANI

2.SASIKALA

..RESPONDENTS/ ACCUSED NOS.1&2

Appeal preferred under section 378 of Cr.P.C to set aside the Judgment passed in CC No.87/2007 dated 05/01/2010 on the file of the Judicial Magistrate No.IV,Thiruchirapalli.

For appellant :Mr.N.Mohideen Basha

For Respondents:Mr.V.Singan

CRL A(MD) NO.386/2010:

RAANEE

...APPELLANT/DEFACTO COMPLAINANT

-Vs-

STATE REP BY

1 THE SUB INSPECTOR OF POLICE, USILAMPATTI POLICE STATION,
CRIME NO.145/2009

2PONNAIAH @ KARUPPATHEVAR

...RESPONDENTS/COMPLAINANT

AND ACCUSED

Appeal preferred under section 378 of the Cr.P.C to set aside the Judgment of acquittal dt.20.09.2010 passed by Judicial Magistrate No.I, Usilampatti in C.C.No.129 of 2009 of 2005.

For appellant :Mr.D.Sadiqraja

For 1st Respondent: Mr.C.Mayilvahan Rajendran,
Additional Public Prosecutor

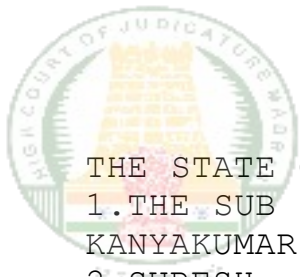
For 2nd Respondent: Mr.C.Srinivasa Raghavan

CRL A(MD) No.37/2013:

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

SAGUNTHALA

...APPELLANT/DEFACTO COMPLAINANT



-Vs-

THE STATE OF TAMIL NADU REP. BY ITS

1. THE SUB INSPECTOR OF POLICE, NITHIRAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.

2. SURESH,

3. NATARAJAN

4. SORNABAI

..RESPONDENTS/ COMPLAINANT AND

ACCUSED NOS.2 TO 4.

Appeal preferred under section 378 of Cr.P.C to call for the records of the Learned Judicial Magistrate No.2, Kuzhithurai in STC No.1131 of 2005 and set aside the acquittal order dated 02/03/2012 by allowing this criminal appeal and punish the Respondents 2 to 4 herein as per the evidenced against them.

For appellant : Mr. Ananth C. Rajesh

For Respondent No.1 : Mr. C. Mayilvahana Rajendran,
Additional Public Prosecutor

For Respondents 2 to 4 : Mr. A. Dennison

CRL A(MD) No.56/2013:

RAJA

..APPELLANT/DEFACTO COMPLAINANT

-Vs-

1. DARBAR@KRISHNAN

2. LOGU@LOGANATHAN

3. VEERASAMY,

4. STATE REP BY

THE SUB INSPECTOR OF POLICE, EDAMALAIPATTI PUDUR POLICE STATION,
TRICHY DISTRICT.

(CRIME NO.34/2011) ..RESPONDENT/ACCUSED NOS.1 to 3 and

Complainant

Appeal preferred under section 372 Cr.P.C to set aside the order of acquittal passed by the Judicial Magistrate No.2, Trichy dated 17.12.2012 in CC.163/11 and convict the accused for the charges framed against them by allowing this Criminal appeal.

For appellant : Mr. P. Ganapathi Subramanian,

For 4th Respondent : Mr. C. Mayilvahana Rajendran,
Additional Public Prosecutor

For respondents 1 to 3 : Mr. T. Senthil Kumar

Crl.A. (MD) .No.165 of 2013:

P.Jothi Pandiyan

.. Appellant / complainant

Vs.

Suseela Jeyanthan

.. Respondent / Accused

Prayer: Criminal filed under Section 378 of Cr.P.C., praying to call for the entire records and set aside the judgment passed by the learned Judicial Magistrate, No.I (Fast Track Court at Mayiladuthurai Police), Madurai, Madurai District, in S.T.C.No.185 of 2012 vide judgment dated 02.11.2012.



For appellant : Mr.R.Anand
For Respondent : Mr.R.Gandhi for
M/s.Ajmal Associates

Cr1.A(MD) .167/2013:

Selvaraj ..Appellant/Complainant

-vs-

MARIMUTHU
2.VANITHA
3.PERUMAYEE
4.PAPA
5.POMMAN

..Respondent/Accused.

Appeal filed under section 372 of Cr.P.C to call for the records and set aside the Judgment and order of Acquittal passed by the Judicial Magistrate No.1 Kulithalai in CC No.94 of 2005 dated 24/11/2012 and convict the accused persons.

For appellant:Mr.s.Deenadhayalan.
For Respondents:Mr.T.Antony Arul Raj

Cr1.A(MD) .191/2013:

P.JOTHI PANDIAN ...APPELLANT/COMPLAINANT

-VS-

JEYANATHAN ...RESPONDENT/ACCUSED

Appeal filed under section 378 Cr.P.C to call for the entire records and set aside the Judgment passed by the Judicial Magistrate No.1 (Fast Track court at Magisterial Level), Madurai, Madurai District in STC No.184 of 2012 vide his Judgment dated 2/11/12 and consequently convict the accused by imposing maximum punishment provided under the law.

For appellant: Mr.R.Anand
For Respondent:Mr.R.Gandhi for M/s.Ajmal Associates

Cr1.A(MD) .222/2013:

S.JEEVA ..APPELLANT/PW 1

-Vs-

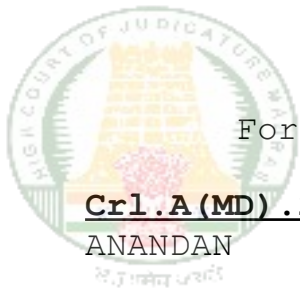
STATE THROUGH

1.THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
PARAMAKUDI, RAMANATHAPURAM DISRICT.
2.MURUGANANDHAM

.. RESPONDENT/ COMPLAINANT

Appeal filed under section 372 r/w 29 of Criminal Amendment Act to call for the records of the Judicial Magistrate Court paramakudi in CC No.66 of 2009 dated 04.09.2012 and set aside the orders passed therein.

For appellant :Mr.S.M.A.Jinnah

For 1st Respondent:Mr.C.Mayil vahana Rajendran
Additional Public Prosecutor**Crl.A(MD).228/2013:**

ANANDAN

..APPELLANT/COMPLAINANT

-vs-

PANNEERSELVAM

..RESPONDENT/ACCUSED

Appeal filed under 378(4) of Cr.P.C to call for the records of the Learned Judicial Magistrate, Aranthangi in CC No.92/2007 and set aside the Dismissal order dated 05.10.2012.

For Appellant :Mr.S.Deenadhayalan

For Respondent:No Appearance

Crl.A(MD).56/2015:

P.RATHINAM

..Appellant/Complainant

-vs-

1.D.YUVARAJ BALAN

2.Y.KAVIN @ KAVINKUMAR

3.C.NAVAS @ NAVASKHAN

4.PALANICHAMY

5.SUGUMAR

6.AMMAYAPPAN

..Respondents/Accused.

Appeal filed under section 378(1) of Cr.P.C to set aside the Judgment passed by the Chief Judicial Magistrate, Karur in CC No.79/2011 dated 08/10/2012 and convict the respondents 1 to 6 herein.

For appellant:Mr.S.Ravi

For Respondents 1 and 2:Mr.M.Karthikeya Venkatachalapathy.

For Respondents 5 and 6:Mr.Thiruvarutselvan

Crl.A(MD).90/2015:

K.MUTHU

..Appellant/Complainant

-vs-

R.PANNEERSELVAM

..RESPONDENT/ACCUSED

Appeal filed under section 378 of Cr.P.C to set aside the Judgment made in STC No.772 of 2011 on the file of the Judicial Magistrate Fast Track Court at Magisterial, Level, Karur, dated 31.10.2014 and set aside the order and allow this appeal and punish the respondent for an offence under section 138 of the NI Act.

For appellant:Mr.S.GokulRaj

Crl.A(MD).12392/2010:

RAANEE

..PETITIONER

-Vs-

STATE REP BY

1.THE SUB INSPECTOR OF POLICE,

<https://hcservices.punjab.gov.in/hcservices/> CHANAIYAT POLICE STATION, CRIME NO.145/2009

2.J.K.PONNAIAH

..RESPONDENTS



Petitioner presented to grant special leave to prefer appeal against the judgment of acquittal dt.20.09.2010 passed by Judicial Magistrate 1, Usilampatti in C.C.NO.129/2005.

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COMMON JUDGMENT

These Criminal appeals have been filed, challenging the order of acquittal passed by the trial Court on a complaint instituted by the victim of the crime.

2. Earlier, the Full Bench of this Court in *S.GANAPATHY Vs. N.SENTHILVEL* reported in 2016(4) CTC 119, considered the right of the victim, who has prosecuted the accused by way of private complaint, and also the right of complainant in a private complaint, who is not a victim to file an appeal under Section 372 Cr.P.C against the order of acquittal. The Full Bench after considering the scope of the proviso Sections 372 and 378 Cr.P.C. has held as follows:-

"31. Since, subsequent to the Full Bench reference, the Supreme Court in *Satya pal Singh* interpreted these provisions, we are duty bound to follow the same to the extent it binds us. With that in mind and in the light of the above legal precedents and the discussion, we answer the questions posed by the Referral Judge as follows:-

(1) A victim of the crime, who has prosecuted an accused by way of a private complaint, has a statutory right of appeal within the limits prescribed under Section 372 of Cr.P.C.

(2) A complainant (in a private complaint), who is not a victim, has a remedy and can file an appeal in the event of acquittal of the accused after obtaining leave to appeal under Section 378(4) of Cr.P.C.

(3) In a private complaint, even if the victim is not a complainant, he has a right to appeal under the proviso to Section 372 of Cr.P.C., but he has to seek leave as held by the Supreme Court in *Satya pal Singh*.

(4) The term victim has been correctly interpreted by the Full Bench of the Delhi High Court in *Ramphal* and we are in agreement with the same.

(5) A victim (as defined under Section 2(wa) of the Cr.P.C does not cease to be a victim merely because he also happens to be a complainant and he can avail all the rights and privileges of a victim also and;

(6) The decision of the Single Judge in *Selvaraj* holding that the term victim found in Section 372 excludes a complainant, is not legally correct and in a given case, a complainant, who is also a victim, can avail right



3. Following the Full Bench Judgment of this Court, a single Judge of this Court (S.NAGAMUTHU.J), in *D.PRABHU Vs. R.MANIKANDAN* reported in 2016 (3) *Madras Weekly Notes (Crl)* 169, has held as follows:-

WEB COPY

".. As held by the Full Bench, as appeal by a victim of crime, who has prosecuted an accused, by way of a private complaint, against acquittal recorded by a Magistrate shall lie only to the respective Sessions Court. It is clear from the plain language employed in the proviso to Section 372 of the Code of Criminal Procedure. Therefore, I am of the view that these appeals, which have been admitted by this Court, need to be transferred to the respective Sessions Court for disposal in accordance with law. In view of the judgment of the Full Bench referred supra, this Criminal Revision cases have been placed before this Court."

4. In the above circumstances, in view of the Full Bench Judgment of this Court in *S.GANAPATHY Vs. N.SENTHILVEL* reported in 2016(4) *CTC* 119, which was followed by a Single Judge of this Court (S.NAGAMUTHU.J,) in *D.PRABHU Vs. R.MANIKANDAN* reported in 2016 (3) *Madras Weekly Notes (Crl)* 169, all the appeals have to be transferred to the respective Sessions Court for disposal in accordance with law.

5. In view of the above, these Criminal appeals are disposed of and these Criminal appeals are transferred to the respective Sessions Courts forthwith and the Sessions Court shall either dispose of the criminal appeal cases or make over the same to the Additional Sessions Courts for disposal in accordance with law, after due notice of hearing to both parties and dispose of these cases as expeditiously as possible, as these criminal appeal cases are of the year 2010, 2013 & 2015. Consequently, connected Crl.O.P.(MD).No.12392 of 2010 is also closed.

6. The Registry is directed to ensure that the records of the lower Courts, if received, shall also be forwarded to the Sessions Court concerned along with the Criminal Appeal papers.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

<https://hccsrecords.sccs.in/> JUDGE, THIRUCHIRAPPALLI

(WITH CRIMINAL APPEAL PAPERS)

2.THE SESSIONS JUDGE MADURAI.



(WITH CRIMINAL APPEAL PAPERS)

3.THE SESSIONS JUDGE, KANYAKUMARI DISTRICT AT NAGERKOIL

(WITH CRIMINAL APPEAL PAPERS)

4.THE SESSIONS JUDGE, KARUR DISTRICT.

(WITH CRIMINAL APPEAL PAPERS)

5.THE SESSIONS JUDGE, RAMANATHAPURAM

(WITH CRIMINAL APPEAL PAPERS)

6.THE SESSIONS JUDGE, PUDUKOTTAI.

(WITH CRIMINAL APPEAL PAPERS)

7.THE JUDICIAL MAGISTRATE NO.IV, TRICHY.

8.THE JUDICIAL MAGISTRATE NO.I, USILAMPATTI.

9.THE JUDICIAL MAGISTRATE NO.II, KULITHALAI.

10.THE JUDICIAL MAGISTRATE NO.II, TRICHY

11.THE JUDICIAL MAGISTRATE NO.I, KULITHALAI.

12.THE JUDICIAL MAGISTRATE NO,I, (FAST TRACK COURT AT MAGISTRATE LEVEL), MADURAI.

13.THE JUDICIAL MAGISTRATE, PARAMAKUDI.

14.THE JUDICIAL MAGISTRATE, ARANTHANGI

15.THE CHIEF JUDICIAL MAGISTRATE, KARUR.

16.THE JUDICIAL MAGISTRATE, FAST TRACK COURT AT MAGISTRATE LEVEL.

17.THE SUB INSPECTOR OF POLICE,
USILAMPATTI POLICE STATION, USILAMPATTI.

18.THE SUB INSPECTOR OF POLICE, NITHIRAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.

19.THE SUB INSPECTOR OF POLICE,
EDAMALAIPATTI PUDUR POLICE STATION, TRICHY.

20.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PARAMAKUDI, RAMANATHAPURAM DISTRICT.

21.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO : THE SECTION OFFICER, CRIMINAL SECTION (RECORDS)
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2cc to Mr.S.DEENADHAYALAN, Advocate, SR. 79413, 79415

+1cc to Mr.ANANTH C.RAJESH, Advocate, SR. 79107

+1cc to Mr.T.ANTONY ARUL RAJ, Advocate, SR. 78906

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