

Crl.A.No.309 of 2017**R.SURESH KUMAR.J.**

Today (06.06.2019), the Criminal Appeal is taken up through Video Conferencing.

2. This Court, by common judgment, dated 12.01.2018 in Crl.A.Nos.468, 560, 793, 818 of 2016 and Crl.A.Nos.153, 246, 309 of 2017, disposed those Criminal Appeals by remitting the matters to the respective Sessions Court, to decide the appeals in accordance with law.

3.The said common judgment was made, following the *dictum* of a Full Bench of this Court in ***S.Ganapathy Vs. V.Senthilvel*** reported in **2016 (3) MLJ (Crl.) 641**.

4.In all those appeals, which were covered by the common judgment dated 12.01.2018, it was pleaded as if that those appeals were preferred as against the order of acquittal made by the respective Magistrate Courts without having preferred the appeal before the First Appellate Court under Section 372 of the Code of Criminal Procedure.

5.Only in that context, in the said common judgment such a remand order has been made, sending back all the appeals before the concerned Sessions Courts including Crl.A.No.309 of 2017.

6.However, it is now pointed out that Crl.A.No.309 of 2017 was preferred against the order passed by the learned III Additional District and Sessions Judge, Coimbatore, in C.A.No.227 of 2015, whereby the judgment and conviction made against the accused/ respondent herein was reversed as against the judgment and conviction made in C.C.No.163 of 2014, passed by the Judicial Magistrate, Fast Track Court at Magistrate Level No.II, Coimbatore by order dated 28.09.2015.

7.Therefore, the fact remains that, as against the conviction made against the respondent herein in this appeal, namely, M.P.Ramesh, he preferred appeal before the First Appellate Court i.e. III Additional District and Sessions Judge, Coimbatore in C.A.No.227 of 2015, where the conviction was reversed and the appeal was allowed. Aggrieved over the same, the appellant herein, who is the complainant before the trial Court has filed the present appeal before this Court.

8.Therefore, due to inadvertence, the said appeal has also

been included along with the said batch of cases, which were disposed of by the common judgment passed by this Court, dated 12.01.2018.

9. In view of the aforesaid factual matrix, the said appeal i.e. CrI.A.No.309 of 2017 ought not to have been included in the common judgment, dated 12.01.2018.

10. In the result, the said common judgment dated 12.01.2018 made in CrI.A.No.468 of 2016 etc., is hereby modified to the extent of deleting the case in CrI.A.No.309 of 2017. Consequently, CrI.A.No.309 of 2017 is hereby restored. Accordingly, the said appeal shall be heard by this Court in the usual course. With this modification, the common judgment, dated 12.01.2018 is accordingly modified and CrI.A.No.309 of 2017 is accordingly restored on the file of this Court.

WEB COPY **06.06.2019**

Ls

R.SURESH KUMAR ,J.

Ls



Order made in
Crl.A.No.309 of 2017

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Dated:
06.06.2019