

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:09.01.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.Appeal No.638 of 2011

M.S.Farook @ Salman Farook ... Appellant/Complainant

Vs

1.S.Karthikesh
2.S.Bala
3.M.S.Sathiyamoorthy
4.V.Muthuraja
5.R.Raghavan

... Respondents/Accused

Prayer: Criminal appeal preferred under Sec.378 of the Code of Criminal Procedure, 1973, to set aside the order passed by the learned Judicial Magistrate No.II, Nagapattinam, dated 20.05.2011 in STC.No.2278 of 2005.

For Petitioner : M/s.R.K.Ayyappan
For Respondents : Mr.S.Karirajan
for R1, R2 and R4
No Appearance for R3 and R5

JUDGMENT

This Criminal Appeal has been filed by the appellant/defacto complainant challenging the order of acquittal passed by the learned Judicial Magistrate No.II, Nagapattinam in STC.No.2278 of 2005, dated 20.05.2011.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents for RR1, 2 and 4. There is no representation for the respondents R3 and R5.

3. The learned counsel for the appellant/complainant submits that the trial Court should have granted an opportunity to the appellant to proceed with the case and merely dismissing it on a technical ground is deprecated by the higher courts of this country. He further submits that the court below ought to have adjourned the case finally by which the appellant herein might have got a chance to prove the allegations against the accused persons. Hence he prays for allowing the appeal.

4. This court finds some force in the submission made by the learned counsel for the appellant. The appellant should be given an opportunity to contest the case on merits. Therefore, this court is inclined to allow this appeal by setting aside the order of the court below.

5. In view of the above, this Criminal Appeal is allowed. The learned Magistrate No.II, Nagapattinam, is directed to dispose the case in STC.No.2278 of 2005 within a period of two weeks from the date of receipt of a copy of this order, without giving any adjournments to either parties. Both the parties are hereby directed to give their fullest co-operation for early disposal of the case. The appearance of the respondent/accused is dispensed with except for the hearing directed by the learned Magistrate No.II, Nagapattinam. After disposal of the above criminal appeal, the learned Magistrate No.II, Nagapattinam, is directed to send a report to this Court, within a period of ten days from the date of judgment.

Sd/-
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Nagapattinam.
2. The Section Officer,
Criminal Section, High Court, Madras.

+1cc to Mr.A.K.AYYAPPAN, Advocate, S.R.No. 1952
+1cc to Mr.S.KASIRAJAN, Advocate, S.R.No. 1629

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MP (CO)
TR(09/03/2018)

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