

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.03.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.A.No.593 of 2009

Uma Valliappan

...Appellant/Complainant

vs

C.Govindaraj

.... Respondent/Accused

Prayer : Criminal Appeal filed under Sections 378 of the Code of Criminal Procedure praying to call for the records relating to the order dated 31.08.2009 in C.C.No.59 of 2005 on the file of the Judicial Magistrate No.II, Salem, set aside the order.

For Appellant : Mr.P.Jagadeesan

For Respondent : Mr.P.Sesubalan raja

O R D E R

This Criminal Appeal has been filed to set aside the order made in C.C.No.59 of 2005 dated 31.08.2009 on the file of the Judicial Magistrate No.II, Salem.

2. The complainant was examined as PW1 on 02.12.2005 and Exhibits P1 to P10 were marked and the evidence on the side of the complainant was also closed on the same day. The matter has been posted for the appearance of the accused for questioning him under Section 313 Cr.P.C, and the same was periodically adjourned. On 13.07.2007, a Non Bailable Warrant was issued against the respondent and it was continued till 20.03.2009. But the learned Judicial Magistrate No.II, Salem without applying his mind passed an order on 31.08.2009, acquitting the accused holding that the complainant had not appeared before the Trial Court, despite notice sent to him, through Court. The order produced by the appellant clearly goes to show that the Magistrate has not applied his mind and passed the order in C.C.No.59 of 2005 on 31.08.2009, closing the petition without assigning any reason, whatsoever.

3. Therefore, this court is inclined to set aside the order passed by the learned Judicial Magistrate No.II, Salem. Hence, the order is set aside and the matter is remitted back to the Judicial Magistrate No.II, Salem who shall dispose of the complaint in C.C.No.59 of 2005 within a period of two months

from the date of receipt of a copy of this order by giving notice to both the parties. Hence, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar(CS IX)

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Sub Assistant Registrar

vum

To

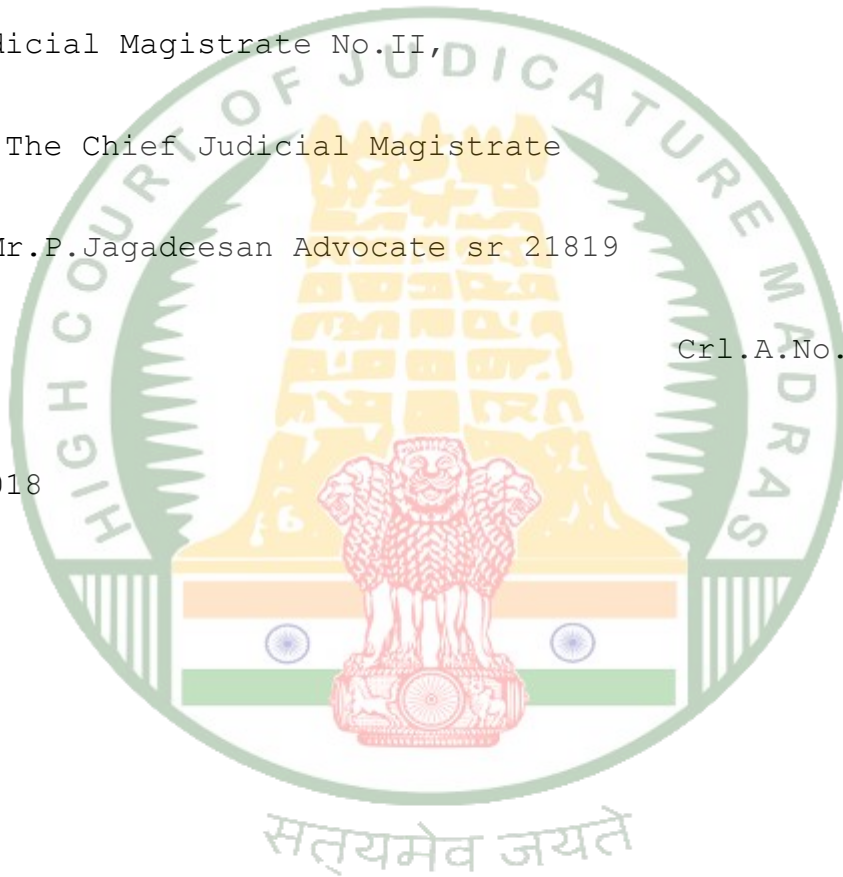
1. The Judicial Magistrate No.II,
Salem.

2.Do-Thro'The Chief Judicial Magistrate
Salem

+1 cc to Mr.P.Jagadeesan Advocate sr 21819

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