

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

Crl.A.Nos.587, 600, 636, 657 of 2016 &
Crl.A.No.140 of 2012

Crl.A.No.587 of 2016:

P.Manoharan

Vs.

.. Appellant/Complainant

1.E.Rajamani

2.R.Karthik

.. Respondents/Accused

Crl.A.No.600 of 2016:

C.Ramesh

Vs.

.. Appellant/Complainant

V.Mahalakshmi

.. Respondents/Accused

Crl.A.No.636 of 2016:

Sumathi,

Vs.

.. Appellant/Complainant

C.Sasikala,

.. Respondents/Accused

Crl.A.No.657 of 2016:

M.Kumaresan

Vs.

.. Appellant/Complainant

N.Mani

.. Respondents/Accused

Crl.A.No.140 of 2012:

M.Vimala

Vs.

.. Appellant/Complainant

1. veanue textiles suppliers

10 A Kalapana Road

jose building

near kalamman koil

udumalpet.

2. C.Venugopal

.. Respondents/Accused No.1 & 2

Appeal filed u/s.378(4) of Cr.P.C., against the Judgment dated 10.02.2016 passed in C.C.No.803 of 2011 on the file of the learned Judicial Magistrate, (Fast Track Court No.IV), George Town, Chennai- 1.

For Appellant : Mr.S.N.Kirubanandam
For Respondents : No Appearance

Appeal filed u/s.378(4) of Cr.P.C., against the Judgment dated 11.04.2016 made in C.C.No.471 of 2008 on the file of the Judicial Magistrate No.1, Pollachi.

For Appellant : Mr.M.V.BALAKRISHNAN
For Respondents : No Appearance

Appeal filed u/s.378(4) of Cr.P.C., against the Judgment made in S.T.C. NO.3 OF 2013 on the file of the Judicial Magistrate, Fast Track Court at Dharmapuri on 18.04.2016 Chennai.

For Appellant : Mr.V.Sakkarapani
For Respondents : Mr.K.Kannan

Appeal filed u/s.378(4) of Cr.P.C., against the Judgment dated 04.09.2015 made in CC NO.237/10 on the file of the District Munsif Cum Judicial Magistrate, Perundurai.

For Appellant : Mr.M.GuruPrasad

For Respondent : ManoKaran

Appeal filed u/s.378(4) of Cr.P.C., against the Judgment dated 08.02.2011 made in CC NO.200/05 on the file of the Judicial Magistrate No.1, Udumalpet.

For Appellant : Mr.M.N.BALAKRISHNAN

For Respondent : MR.P.S.KOTHANDARAMAN

COMMON JUDGMENT

All these appeals have been filed by the victims/complainants challenging the order of acquittal in respect of the cases tried by the trial court, which were filed

to punish the accused under Section 138 of the Negotiable Instruments Act. It is to be noted that, as per the amendment to Section 372 of the Code of Criminal Procedure with effect from 31.12.2009 a provision has been inserted. Accordingly, the victim shall have a right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of the court.

2. In view of the said amendment, it has been considered by a Full Bench of this Court where the law has been declared that a victim of the crime which has prosecuted the accused by way of a private complaint has a statutory right of appeal as prescribed under Section 372 of Cr.P.C.

3. Following the said dictum of the Full Bench of this Court and in view of the proviso to Section 372 of the Code, these appeals filed before this Court should have been filed before the concerned Sessions Court by way of an appeal.

4. When a number of said appeals (CrI.A.Nos.308,319,321,338 and 339, 341,348, 349, 353, 354, 355 & etc., batch) as that of the present set of appeals came up for consideration after considering the proviso to Section 372 of the code as well as the dictum of the Full Bench judgment reported in S.Ganapathy vs. N.Senthilvel reported in (2016) (3) MLJ (CrI.) 641, I have passed the following order:

13. In view of the said Judgment of the Full Bench as well as the other two orders of the learned respective single Judges and also in view of the submissions made by the counsels appearing for the appellants, this Court is inclined to dispose of all these appeals in the following terms:

(i) These criminal appeals are disposed of, along with connected original petitions and miscellaneous petitions, by transferring the same to the respective Principal Sessions Courts;

(ii) On receipt of the transferred cases, it is for the Sessions Court to take up and dispose the appeals or make over the same to the Additional Sessions Court for disposal, in accordance with law.

(iii) Before taking up the appeal by the Sessions Court concerned, due notices be

served to both parties;

(iv) Since these appeals are pending for some years before this Court, priority can be given for these appeals for disposal, and accordingly, these appeals can be disposed of as expeditiously as possible.

14. Registry is directed to send these case bundles with all connected records of the lower Court, if any received, to the concerned Sessions Court forthwith."

5. Since these appeals are also of similar nature, where the complainant/victim suffered with an order of acquittal in 138 proceedings, these appeals also should have been filed before First Appellate Court and therefore, these appeals are disposed of, in the following terms.

(i) These criminal appeals are disposed of, along with connected original petitions and miscellaneous petitions, by transferring the same to the respective Principal Sessions Courts;

(ii) On receipt of the transferred cases, it is for the Sessions Court to take up and dispose the appeals or make over the same to the Additional Sessions Court for disposal, in accordance with law.

(iii) Before taking up the appeal by the Sessions Court concerned, due notices be served on both parties;

(iv) Since these appeals are pending for some years before this Court, priority can be given for these appeals for disposal, and accordingly, these appeals can be disposed of as expeditiously as possible.

6. Registry is directed to send these case bundles with all connected records of the lower Court, if any received, to the concerned Sessions Court forthwith.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. THE PRINCIPAL SESSIONS JUDGE,
CHENNAI

2. THE PRINCIPAL SESSIONS JUDGE,
COIMBATORE.

3. THE PRINCIPAL SESSIONS JUDGE,
DHARMAPURI

4. THE PRINCIPAL SESSIONS JUDGE,
ERODE.

5. THE JUDICIAL MAGISTRATE FAST TRACK COURT IV GEORGE TOWN
CHENNAI.

6. DO THRO THE CHIEF JUDICIAL MAGISTRATE EGMORE CHENNAI.

7. THE JUDICIAL MAGISTRATE, POLLACHI

8. THE CHIEF JUDICIAL MAGISTRATE, COIMBATORE.

9. THE JUDICIAL MAGISTRATE, FAST TRACK COURT DHARMAPURI

10. DO THRO THE CHIEF JUDICIAL MAGISTRATE, DHARMAPURI

11. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, PERUNDURAI

12. DO THRO THE CHIEF JUDICIAL MAGISTRATE, ERODE

13. THE JUDICIAL MAGISTRATE NO.1, UDUMALPET.

14. DO THRO THE CHIEF JUDICIAL MAGISTRATE, COIMBATORE.

COPY TO

THE SECTION OFFICER, CRIMINAL SECTION, HIGH COURT, MADRAS.

+1cc to Mr.N.MANOKARAN Advocate, S.R.No. 737

+1cc to Mr.M.GURUPRASAD Advocate, S.R.No. 990

+1cc to Mr.V.SAKKARAPANI Advocate, S.R.No. 573

+2cc to Mr.M.N.BALAKRISHNAN, Advocate, S.R.No.1082 & 1083

Cr1.A.Nos.587,600, 636, 657/16
& Cr1.A.No.140 of 2012

MG(CO)
TR(30/01/2018)