



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2018

CORAM:

WEB COPY

**THE HONOURABLE MR. JUSTICE P.N. PRAKASH**

Crl.O.P. (MD) No.4706 of 2018  
in  
Crl.A. (MD) No.SR23576 of 2010  
and  
Crl.A. (MD) No.SR23576 of 2010

T.Madasamy

: Petitioner/Appellant

**-Vs.-**

M.Prince Pradeep

: Respondent/Respondent

Prayer in Crl.O.P. (MD) No.4706 of 2018: Criminal Original Petition is filed under Section 378 (4) Cr.P.C., to grant leave for the petitioner / appellant / complainant to prefer the appeal against the judgment and order of acquittal dated 30.04.2010 in S.T.C.No.97 of 2009 on the file of the Judicial Magistrate, Theni.

Prayer in Crl.A. (MD) No.SR23576 of 2010: Criminal Appeal is filed under Section 378 Cr.P.C., to call for the records and set aside the order of acquittal judgment passed in S.T.C.No.97 of 2009 by the learned Judicial Magistrate, Theni vide his judgment and order dated 30.04.2010 and consequently remand back the above case to the trial Court for fresh disposal according to law.

For Petitioner : Mr.AR.Jeya Rhuthran

**O R D E R**

For the sake of convenience, the parties will be referred to as the complainant and the accused.

2. The complainant initiated a prosecution in S.T.C.No.97 of 2009 before the learned Judicial Magistrate, Theni, under Section 138 of the Negotiable Instruments Act, against the accused.

3. On 30.04.2010, the trial Court has dismissed the complaint by passing the following order in S.T.C.No.97 of 2009, which reads as under:

<https://hcservices.ecourts.gov.in/hcservices/> "No representation. Complainant not present for the past two hearing. This case is pending before the Court for two years, After



issuing of final notice the complainant was not come forward to proceed the case. Hence to avoid delay proceeding and to reduce the pendency this petition is dismissed u/s 256 Cr.P.C."

4. Challenging the said order, the complainant has filed the present appeal against the acquittal with a delay of 69 days. Therefore, the complainant has filed M.P.(MD)No.1 of 2010 in CrI.A. (MD)No.SR23576 of 2010 under Section 5 of the Limitation Act for condonation of delay.

5. This Court has condoned the delay today.

6. Coming to the Special Leave Application, it is a trite law that Leave to Appeal is not automatic. Every accused has a right to speedy trial. The complaint was kept pending for two years and despite final notice to the complainant, he had not appeared before the trial Court. Hence, this is not a fit case to Special Leave to Appeal requires to be granted. Accordingly, this Criminal Original Petition is dismissed. Consequently, the Criminal Appeal is rejected in the SR stage itself.

Sd/-  
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

**To**

The Judicial Magistrate, Theni.

SM

TE/JC/SAR-3 : 19/04/2018 : 2P/2C

Order made in  
CrI.O.P.(MD)No.4706 of 2018 in  
CrI.A. (MD)No.SR23576 of 2010 and  
CrI.A. (MD)No.SR23576 of 2010  
Dated: 22.03.2018