



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2018

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CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD)No.4801 of 2018

in

Crl.A.(MD)SR.No.5028 of 2011

J.Gerald Mary Latha : Petitioner/Appellant/Complainant

Vs.

K.Jacob Samuel : Respondent/Respondent/Accused

Prayer in Crl.O.P.(MD)No.4801 of 2018:- Petition is filed under Section 378(3) of the Criminal Procedure Code to grant special leave to appeal against the judgment of acquittal dated 12.11.2010 passed by the learned Judicial Magistrate No.V, Madurai, in S.T.C.No.1009 of 2008.

Prayer in Crl.A.(MD)SR.No.5028 of 2011:- Appeal is filed under Section 378(4) of the Criminal Procedure Code praying to set aside the judgment and acquittal order dated 12.11.2010 passed by the learned Judicial Magistrate No.V, Madurai, in S.T.C.No.1009 of 2008 and convict the accused for the offence under Sections 138 and 142 of the Negotiable Instruments Act.

For Petitioner : Mr.K.Samidurai

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.1009 of 2008 before the learned Judicial Magistrate No.V, Maudrai, under Sections 138 and 142 of the Negotiable Instruments Act against the accused. On 12.11.2010, the Trial Court passed the following order:



made on her behalf. Final notice sent for her but even today complainant did not appear and no representation is made on her side. Hence the summary trial case of the year 2008 is dismissed for her continuous non app. and the accused is discharged thereof."

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3. Challenging the said order, the complainant filed the present appeal with a delay of 38 days. Hence, the complainant filed M.P.(MD)No.1 of 2011 in Crl.A.(MD)SR.No.5028 of 2011 under Section 5 of the Limitation Act for condonation of delay, which has been allowed by this Court today.

4. Coming to the Special Leave Petition, it is seen that from 2008 to 2010, there has not been any progress in the trial on account of the complainant's conduct. Hence, this Court is of the view that this is not a fit case to grant Special Leave. Hence, the Special Leave Petition is dismissed. Consequently, Crl.A.(MD) SR.No.5028 of 2011 stands rejected.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.V,
Madurai.

SML

TE/JC/SAR-4 : 27/04/2018 : 2P/2C

Order made in
Crl.O.P.(MD)No.4801 of 2018 in
Crl.A.(MD)SR.No.5028 of 2011
Dated: 23.03.2018