



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.4294 of 2014

in

Crl.A.(MD) No.SR40424 of 2013

The Tamil Nadu Industrial Cooperative
Rubberised Coir Products Ltd.,
Panayakkottai - 614 019,
Thanjavur District,
Represented by its
Managing Director.

... Petitioner/Complainant

vs.

S.Philip Karunakaran

... Respondent/Respondent

PRAYER (Crl.O.P.(MD) No.4294 of 2014): Criminal Original Petition filed under Section 378(4) of Cr.P.C., praying to grant leave to the petitioner for filing the Criminal Appeal as against the order of acquittal dated 06.09.2011 on the file of learned Judicial Magistrate No.II, Thanjavur in C.C.No.640 of 2006.

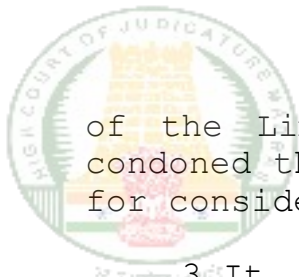
PRAYER (Crl.A.(MD) No.SR40424 of 2013): Criminal Appeal filed under Section 378 Cr.P.C., praying to call for the records and set aside the order dated 06.09.2011 passed in C.C.No.640 of 2006 on the file of learned Judicial Magistrate No.II, Thanjavur.

For Petitioner : Mr.K.Guhan

O R D E R

For the sake of convenience, the petitioner and the respondent herein are referred to as "the complainant" and "the accused" respectively in this order.

2.The complainant initiated a prosecution in C.C.No.640 of 2006 against the accused before the Judicial Magistrate No.II, Thanjavur under Section 138 of the Negotiable Instruments Act, in which, the accused was acquitted by judgment dated 06.09.2011. Challenging the acquittal, the complainant has filed the present appeal with an enormous delay of 768 days. Therefore, the complainant filed M.P. (MD) No.2 of 2014 in Crl.A.(MD) No.SR40424 of 2013 under Section 5



of the Limitation Act for condonation of delay. This Court has condoned the delay today and has taken up the Special Leave Petition for consideration.

3. It is a trite law that special leave to appeal cannot be granted as matter of routine. In this case, the accused has marked 6 exhibits before the trial Court in order to dislodge the presumption under Section 139 of the Negotiable Instruments Act. These factors have been taken into consideration by the trial Court for acquitting the accused. In **Arulvelu and another vs. State [2009 (10) SCC 206]**, the Hon'ble Supreme Court held that when two views are possible, the view favouring the accused merits acceptance. In the light of the above, this Court does not find any infirmity or illegality in the judgment made by the trial Court. Hence, it is not a fit case to grant special leave to appeal.

4. Accordingly, this Criminal Original Petition is dismissed and consequently, Crl.A.(MD) No.SR40424 of 2013 is rejected.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate No.II,
Thanjavur.

+ 1 CC TO Mr.K.GUHAN, ADVOCATE IN SR No. 57489

SJ

TE/SKN-RSK/SAR-1 : 06/04/2018 : 2P/3C

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Crl.A.(MD) No.SR40424 of 2013
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