



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C (MD) No.369 of 2018

WEB COPY

Nachiyar

: Petitioner/Appellant/ Complainant

Vs.

S.Balagurusamy

: Respondent/Respondent/ Accused

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records to the judgment dated 11.10.2017 in C.A.No.60 of 2016 passed by the second Additional District Sessions Court, Tuticorin, which confirmed the Acquittal Judgment passed by the Fast Track (Magistrate Level) Court, Tuticorin in C.C.No.300 of 2014 dated 21.09.2016 and set aside the same.

For Petitioner

: Mr.B.Rajesh Saravanan

For Respondent

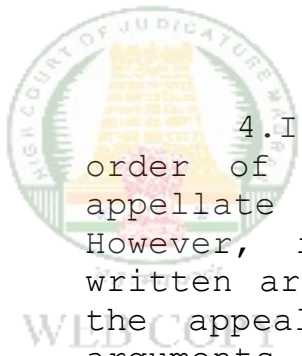
: Mr.A.Thiruvadi Kumar

ORDER

This Criminal Revision case is filed against the judgment dated 11.10.2017 in C.A.No.60 of 2016 passed by the learned second Additional District and Sessions Court, Tuticorin, confirming the Judgment passed by the Fast Track (Magistrate Level) Court, Tuticorin in C.C.No.300 of 2014 dated 21.09.2016.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.Against the order of the acquittal, the revision petitioner herein has preferred an appeal in C.A.No.60 of 2016 before the Second Additional District and Sessions Court, Tuticorin. When the matter was taken up for final disposal, there was no representation on behalf of the complainant/appellant before the appellate Court. Therefore, the appellate Court has dismissed the appeal for non-prosecution. The revision petitioner, who is the appellant before the appellate Court, submitted that though there was no representation on her behalf on 11.10.2017, she has filed her written arguments in the office of the Second Additional District and Sessions Court, Tuticorin on 04.10.2017. Though she or her counsel was not present on the date of hearing, the appellate Court ought to have gone through the written arguments, before dismissing the appeal for non-prosecution. Having failed to consider the written arguments, which was on the record, on the date of dismissing the appeal for non-prosecution, the judgment of the appellate Court is to be set aside.



4.If there is no representation in an appeal against the order of acquittal arising out of the private complaint, the appellate Court can very well dismiss it for non-prosecution. However, in this case, since besides grounds of appeal, the written arguments has also been filed by the appellant herein. In the appeal, personal hearing is not necessary. The written arguments filed by the appellant ought to have been considered by the appellate Court.

5.Therefore, this Court finds that there is an irregularity in the judgment passed by the appellate Court, which requires interference. Accordingly, the Criminal Revision Case is allowed and the Judgment passed by the appellate Court in C.A.No.60 of 2016 is set aside. The appellate Court shall consider the written arguments submitted by the appellant and pass appropriate orders within a period of 30 days from the date of receipt of a copy of this order. If the appellant chooses to make oral submission, that may also be taken note of.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The second Additional District Sessions Court,
Tuticorin.
2. The Fast Track (Magistrate Level) Court,
Tuticorin.

+1cc to Mr.B.Rajesh Saravanan, Advocate SR.No.80650

+1cc to Mr.A.Thiruvadi Kumar, Advocate Sr.No.80390

CP

VB/SV/SAR2/11.09.2018/2P/5C

ORDER MADE IN
Cr1.R.C(MD)No.369 of 2018
27.08.2018