



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )

Thursday, the Sixteenth day of August Two Thousand Eighteen

PRESENT

**The Hon`ble Dr.Justice G.JAYACHANDRAN**

CRL MP(MD) No.6312 of 2018  
IN  
CRL A(MD) No.SR25539 of 2018

1 BELICKS

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY  
THE INSPECTOR OF POLICE,  
MANAMELKUDI POLICE STATION,  
PUDUKOTTAI DISTRICT.  
Crime NO. 132 of 2003

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to condone the delay of 495 days in filing the criminal appeal against the Judgment dated 14/02/2017 passed by the Principal District Court, Pudukottai in S.C.NO.36 of 2011.

**PRAYER IN CRL A(MD) No.SR25539 of 2018:**

To set aside the conviction and sentence passed in S.C.No.36 of 2011 by the Principal District Court, Pudukkottai dated 14.02.2017.

**Order :** This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.T.LENIN KUMAR, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate (criminal side) for the Respondent the court made the following order:-

The petitioner herein, who was found guilty for the theft of electricity for the offence under Section 39(1) of the Indian Electricity Tamil Nadu Amendment Act, 1980, is the accused before the Trial Court in S.C.No.36 of 2011 on the file of the learned Principal District Judge, Pudukkottai. The Trial Court has convicted the accused and imposed a fine of Rs.10,000/- (Rupees Ten Thousand Only) in default to undergo simple imprisonment for one month. The judgment was rendered on 14.02.2017.

2. Aggrieved by the said judgment, the present Criminal Appeal is filed with delay of more than one year.



3. Though the reasons stated in this petition are not sufficiently explained, this Court is inclined to condone the delay and also modify the fine amount, due to the patterned error in the quantum of the fine amount imposed by the Trial Court under the old provision of Section 39(1) of Indian Electricity Tamil Nadu Amendment Act, 1980, which reads as follows:-

"39. Theft of energy:- (1) Whoever dishonestly abstracts, consumes or uses any energy shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees, or with both and if it is proved that any artificial means or means not authorised by the licensee exist for the abstraction, consumption or use of the energy by the consumer, it shall be presumed, until the contrary is proved, that such abstraction, consumption or use of energy has been dishonestly caused by such consumer."

4. The new Indian Electricity Act, 2003 came into force on 10.06.2003. The occurrence in this case happened on 29.05.2003. Therefore, the old provision of Section 39(1) of Indian Electricity Tamil Nadu Amendment Act, 1980, (hereinafter called as the Act) is applied in this case. The Trial Court has rightly dealt with the case under the old Act. But the maximum fine amount, which can be imposed under the old Act is Rs.5,000/-, whereas the Trial Court has imposed a fine amount of Rs.10,000/-. Therefore, the fine amount imposed by the Trial Court is reduced from Rs.10,000/- to Rs.5,000/-.

5. The excess amount of Rs.5,000/- shall be refunded to the petitioner / appellant accused on filing petition before the Trial Court.

6. In the result, the delay in filing the above Criminal Appeal is condoned. The Registry is directed to number the above Criminal Appeal. The judgment of the Trial Court is modified to the effect that the fine shall be Rs.5,000/- instead of Rs.10,000/-

sd/-  
16/08/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.



TO

1. THE PRINCIPAL DISTRICT COURT, PUDUKKOTTAI.

2. THE CHIEF JUDICIAL MAGISTRATE,  
PUDUKKOTTAI DISTRICT.

3. THE INSPECTOR OF POLICE,  
MANAMELKUDI POLICE STATION, PUDUKOTTAI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP (MD) No.6312 of 2018

IN

CRL A (MD) No.SR25539 of 2018

Date :16/08/2018

TK/PN/SAR.2/27.08.2018/3P-5C