



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Friday, the Ninth day of August Two Thousand and Eighteen

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

WEB COPY

CRL MP(MD) No.6314 of 2018

IN

CRL RC(MD) No.320 of 2018

P. MURUGAN

S/O. LATE. PATTAKONAR, D.NO.1B, PUTHARA
YATHAVAR STREET, KALLUR ROAD, CHERANMAHADEVI VILLAGE,
CHERANMAHADEVI TALUK, TIRUNELVELI DISTRICT.

...Petitioner in CRL MP(MD) No.6314 of 2018

Vs.

1.AYIRATHAN @ DURAI

S/O. SUBBAIAH KONAR, CHENNAI RAJAPURAM STREET, CHERANMAHADEVI.

2.PARVATHI

W/O. AYIRATHAN @ DURAI, CHENNAI RAJAPURAM STREET, CHERANMAHADEVI.

3.THE INSPECTOR OF POLICE

CHERANMAHADEVI POLICE STATION, CHERANMAHADEVI,
(CRIME NO.100/2008, DATED 29/06/2008)

..Respondent in CRL MP(MD) No.6314 of 2018

Prayer in CRL MP(MD). 6314/ 2018 :

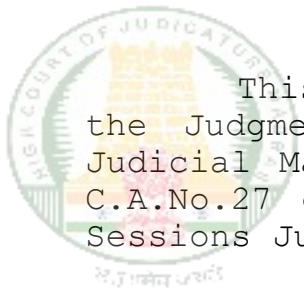
To set aside disposal order passed against the Criminal Revision petition No. 320 /2018 on 26.06.2018 by this Honourable court and to restore the main revision petition.

Prayer in CRL RC(MD) No.320 of 2018:

Petition filed under Criminal Revision Petition filed under section 397(1) r/w.401 of Cr.P.C., to call for the records in C.C.No.226/2010 on the file of the Judicial Magistrate, Cheranmahadevi and C.A.No.27/2017 on the file of the III Additional District and sessions Judge, Tiunelveli and set aside the Lower and Appellate Court Judgment dated 05.01.2017 in C.C.No.226/2010 on the file of the Judicial Magistrate, Cheranmahadevi and confirming on 12.02.2018 in CA.No.27/2017 on the file of the III Additional District Sessions Judge, Tirunelveli.

ORDER:

This Civil Miscellaneous Petition coming on for hearing on this day and upon perusing the petition and affidavit and of Mr.A.Robinson, Government Advocate (Crl.Side) appearing for the 3rd respondent, and the petitioner not appearing in person or by Advocate, the court made the following order:-



This Criminal Revision Petition has been filed to set aside the Judgment of acquittal passed in C.C.No.226 of 2010 by the Judicial Magistrate, Cheranmahadevi and confirmed on 12.02.2018 in C.A.No.27 of 2017 on the file of the III Additional District and Sessions Judge, Tirunelveli.

2. This Revision Petition is preferred against the concurrent findings of the Courts below, acquitting the respondents. The brief facts of the case is that, the de-facto complainant has lodged a complaint against the respondents Ayirathan @ Durai/ first respondent and Parvathi/second respondent, wife of Ayirathan @ Durai alleging that, he borrowed Rs.1,00,000/- (Rupees One lakh only) loan from the first respondent / Ayirathan @ Durai, promising to pay 5% interest. He also executed a pro-note on 01.11.2004 to that effect, under threat. Further, alleging that the jewel of the de-facto complainant was pledged by the first respondent at State Bank of India, Tirunelveli on 25.11.2006 and when the de-facto complainant asked for the jewels, the first respondent Ayirathan @ Durai and his wife, Parvathi / second respondent threatened him with dire consequences and killed him.

3. Based on the complaint, the police has registered F.I.R and final report was filed before the trial Court. Based on the materials, the trial Court has framed charges under Sections 294(b), 506(ii), 386 and 420 of IPC against A1 and under Sections 294(b) and 506(ii) of IPC against A2.

4. Before the trial Court, the prosecution has examined 14 witnesses , 21 exhibits and one material object. After considering the evidences, the trial Court has acquitted the accused, extending the benefit of doubt. On appeal, the Appellate Court also confirmed the order of acquittal.

5. Aggrieved by that, the present Revision petition has been filed. But when the matter was listed for final hearing, there was no representation for the revision petitioner. Therefore, this Court has dismissed this revision petition on 26.06.2018 recording the following:

" When the matter is taken up for hearing on 18.06.2018, there was no representation on behalf of the petitioner. Hence, the matter was adjourned to 19.06.2018 and on that day, there was no representation on behalf of the petitioner. Hence, on 19.06.2018, the matter was directed to be posted under the caption 'for dismissal' on 20.06.2018. On 20.06.2018, the matter was directed to be posted under the caption 'for dismissal' on 26.06.2018.

Even today (26.06.2018), there is no representation on behalf of the petitioner. Hence, this Criminal Revision case is dismissed for non prosecution."



6. After dismissal of the revision petition, the revision petitioner has taken out an application for restoring the revision petition, that was numbered as Crl.M.P.(MD) No.6314 of 2018 and listed for hearing today (i.e.,) on 09.08.2018.

7. Even today, there is no representation for the petitioner. Hence, this Court has gone through the material records and finds that, the respondents, found not guilty by the trial Court as well as the Appellate Court and since no substantial ground is available to entertain the miscellaneous petition, besides non-appearance of the petitioner, this Criminal Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS IV)

TO

1.THE DISTRICT MUNSIF - CUM -
JUDICIAL MAGISTRATE, CHERANMAHADEVI.

2.THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

3.THE INSPECTOR OF POLICE,
CHERANMAHADEVI POLICE STATION,
CHERANMAHADEVI.

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

ORDER DATED :19/08/2018

ORDER

CRL MP (MD) No.6314 of 2018

IN

CRL RC (MD) No.320 of 2018

DS RSK SAR4 13 03 2019 3P 5C