



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2018

C O R A M

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.A.(MD)No.498 of 2018

and

Crl.M.P.(MD).No.9055 of 2018

S.Nagarathinam

.. Appellant/Accused No.2

Vs

The Deputy Superintendent of Police,
Vigilance and Anti-Corruption - Wing,
Ramanathapuram District.
(Crime No.4 of 2004)

.. Respondent/ Complainant

Criminal Appeal has been filed under Section 374(2) of the Code of Criminal Procedure, 1973, to call for the records relating to the judgment passed in Spl.C.C.No.08 of 2005 dated 27.09.2018 on the file of the learned Chief Judicial Magistrate, Ramanathapuram and set aside the same and acquit the appellant/accused No.2 from the charge levelled against him.

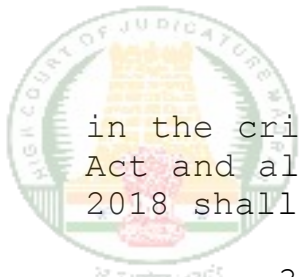
For Petitioner : Mr.D.Sasikumar

For Respondent : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

JUDGMENT

The Judgment dated 27.09.2018 passed in Spl.C.C.No.08 of 2005 by the learned Chief Judicial Magistrate, Ramanathapuram is being challenged in the present appeal.

2. While considering the appeal preferred by the co-accused in Spl.C.C.No.8 of 2005 on the file of the learned Special Judge/Chief Judicial Magistrate, Ramanathapuram, this Court has set aside the judgment and remanded back for fresh hearing, since the trial Court has applied the amended provisions of the Prevention of Corruption Act for the crime committed prior to the amendment. Considering Section 6 of the general clauses Act and Section 13 of the Prevention of Corruption Act as well as the Hon'ble Supreme Court judgment rendered in **Kesava Madava Menon vs., State of Bombay** reported in **AIR (38) 1951 SC 128** and also considering the law on these aspects, this Court has made clear that the provisions of the amended PC Act shall have only prospective effect and cannot be applied retrospectively and further this Court has also made clear in the said judgment that except the provisions relating to attachment of property involved



in the crime and the application of Prevention of Money Laundering Act and all other provisions of the amended PC Act under Act 16 of 2018 shall only have retrospective effect.

3. By holding so, this Court has set aside the order passed by the trial Court dated 27.09.2018 in toto and remanded back the matter. While remanding the matter, this Court has also passed a specific direction that the matter may be heard by a different Presiding Officer. Accordingly, the Chief Judicial Magistrate, Ramanathapuram is directed to send the records to the Special Court at Sivagangai constituted exclusively to try offences under the Prevention of Corruption Act forthwith not later than 30th November 2018. Thereafter, the Special Court, Sivagangai shall take up the matter and decide on merits.

4. The Chief Judicial Magistrate, Special Court for PC Act, Sivagangai is directed to hear the submissions of the parties and pronounce judgment within 30 days from the date of the receipt of the records.

5. With these observations and directions, this Criminal Appeal is disposed of. Consequently, connected Crl.M.P.(MD). No.9055 of 2018 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Chief Judicial Magistrate,
Ramanathapuram.
2. The Chief Judicial Magistrate,
Special Court for PC Act, Sivagangai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Sasikumar, Advocate Sr.No.94268

PJL

VB/RP/SAR2/28.11.2018/2P/5C

ORDER MADE IN
Crl.A(MD)No.498 of 2018
01.11.2018