



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) Nos.1051 and 1052 of 2013

and

M.P. (MD) Nos.1, and 2 of 2013 in both CRL OPs

G.Kumaresan

... Petitioner in
Crl.O.P. (MD) No.1051/2013

1. M/s.Udhayam Motors (Auto Finance),
A Partnership Firm,
Rep. by its Partner,
Pattayakoil North,
Kamayagoundanpatti,
Cumbum.

2. M.Selvakumar,
Partner,
M/s.Udhayam Motors (Auto Finance),
Electricity Board Office,
Opposite Lane,
Kamayagoundanpatti,
Cumbum.

3. P.Ponnusamy,
Partner,
M/s.Udhayam Motors (Auto Finance),
Electricity Board Office,
Opposite to Government Higher Sec. School,
Kamayagoundanpatti,
Cumbum.

... Petitioners in
Crl.O.P. (MD) No.1052/2013

Vs.

R.Ramanathan

... Respondent
in both the Crl.O.Ps.

PRAYER: Criminal Original Petitions are filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.R.P.Nos.25 and 24 of 2012, dated 28.11.2012, on the file of the Principal District Court, Theni, reversing the judgment passed in S.T.C.Nos.278 and 214 of 2011 on the file of the Judicial Magistrate Court [Fast Track Court], Uthamapalayam, dated 25.08.2012 respectively and set aside the same.



For Petitioners : Mr.K.P.S.Palanivelrajan
(in both the Crl.O.Ps.)
For Respondent : Mr.K.Gokul
(in both the Crl.O.Ps.) for Mr.P.Jayaram

WEB COPY

COMMON ORDER

The petitioners were accused in two private complaints instituted under Section 138 of the Negotiable Instruments Act. In both the private complaints, the complainant did not appear. Therefore, the petitioners herein/accused were rightly acquitted by invoking Section 256 of Cr.P.C. The judgment of acquittal was passed on 25.08.2012.

2.Against the judgment of acquittal, the respondent/complainant can only prefer an appeal. During the relevant time, the appeals used to be preferred before this Court after obtaining leave in terms of Section 378(4) Cr.P.C. Later, this was clarified by a Full Bench of this Court in the decision reported in **2016 (3) MLJ (Crl.) 641 (FB) [S.Ganapathy Vs. N.Senthilvel]**. Following the said Full Bench judgment, the appeals filed before this Court under similar circumstances were referred to the respective Sessions Court for their disposal.

3.In the present cases, the respondent/complainant did not file any formal appeal questioning the judgment of acquittal. Instead, he chose to file Revision Petitions before the Principal District and Sessions Court, Theni. Revision Petitions against the orders of acquittal are not maintainable.

4.In the present cases, without considering the maintainability, the revision petitions filed by the respondent/complainant were mechanically allowed by the Principal District Court. Theni. Therefore, in this view of the matter, the impugned orders in these Criminal Original Petitions shall stand set aside. Accordingly, these Criminal Original Petitions are allowed.

5.At this stage, the learned counsel appearing for the respondent/complainant submitted that the respondent should not be put in a worse off position. Liberty is therefore given to him to prefer an appropriate appeal questioning the judgments of acquittal. It goes without saying that the time spent in pursuing the revisional remedy and the subsequent pendency of the original petitions shall be excluded for computing the limitation in preferring the appeal. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)



To
1. The Principal District Judge,
Theni.

2. The Judicial Magistrate,
[Fast Track Court]
Uthamapalayam.

+ 2 CC TO Mr.K.P.S.PALANIVEL RAJAN, ADVOCATE IN SR No. 61302

SMN2

TE/JC/SAR-4 : 24/04/2018 : 3P/5C

Common order in
Cr1.O.P.(MD)Nos.1051 & 1052 of 2013
11.04.2018