

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

CRL.R.C.NO.38 OF 2019

Jayalakshmi.K

...Petitioner

-Vs-

R.Sivakumar

...Respondent

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. praying to set aside the order dated 27.09.2018 passed in Crl.M.P.No.1048 of 2018 on the file of the Principal Sessions Judge, Erode.

For Petitioner : Mr.S.Sathish Kumar

O R D E R

The present Criminal Revision Petition has been filed against the order passed in Crl.M.P.No.1048 of 2018 dated 27.09.2018 in unnumbered Criminal Appeal by the learned Principal Sessions Judge, Erode, rejecting the petition seeking condonation of delay of 421 days in filing the Criminal Appeal.

2.The lower Appellate Court dismissed the petition seeking condonation of delay stating that no acceptable reason has been set forth in the affidavit filed in support of the condone delay petition. The lower Appellate Court reasoned that except stating that the case bundles was mixed up with the old bundles in the counsel's office, no other reason has been stated in the affidavit. When, a huge delay is sought to be condoned, there must be proper reasons to be stated in the affidavit for the Court to appreciate the same and condone the delay.

3.In the instant case, it appears that no efforts have been taken on behalf of the petitioner to explain the delay effectively and therefore the lower Appellate Court has rightly rejected the same. Moreover, the lower appellate Court has also traversed the merits of the case, wherein a private complaint was filed case by the petitioner against the respondent and two others and the same was taken on file in C.C.No.12 of 2009 and as against this respondent, cognizance was taken under Section

406 of IPC and after conclusion of the trial the learned Judicial Magistrate, Bhavani has acquitted the respondent on 28.04.2017.

5. In the said circumstances, the delay of 421 days was found to be extraordinary and unless there was proper explanation, the lower Appellate Court felt it was not right to entertain the delay petition.

6. This Court does not find anything wrong with the order and finds no infirmity in the conclusion reached by the lower Appellate Court and hence, the present Criminal Revision is dismissed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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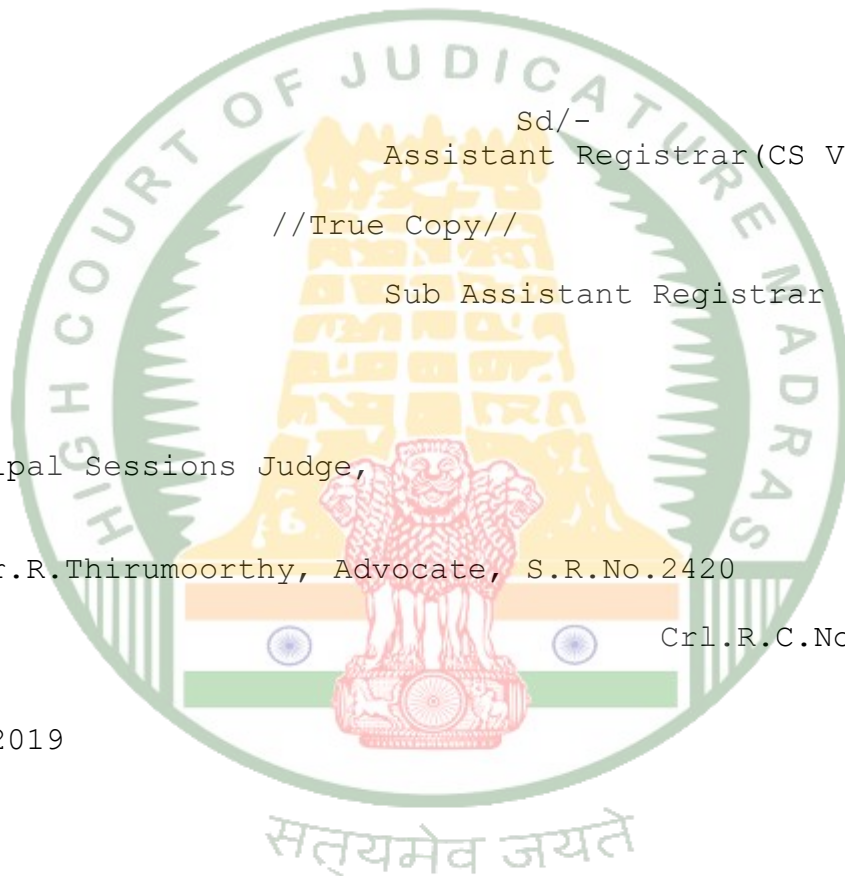
To

The Principal Sessions Judge,
Erode.

+1cc to Mr.R.Thirumoorthy, Advocate, S.R.No.2420

CrI.R.C.No.38 of 2019

PA(CO)
CS/18/02/2019



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