

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.A.No.103 of 2011

Assistant Commissioner of Customs,  
Customs Division,  
No.1, Williams Road,  
Cantonment,  
Trichirapalli - 620 001.

... Appellant

Vs

Shri.S.Subash

... Respondent

PRAYER: This Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the Judgment dated 20.11.2009 passed by the Judicial Magistrate, No.3 Salem in C.C.No. 32 of 2005, and to convict and the maximum sentence to the Respondent/Accused.

For Appellant : M/s.A.P.Srinivas

For Respondent : Mr.B.Sathish Sundar

ORDER

This Criminal Appeal has been filed under Section 378 of Criminal Procedure Code 1975 read with Proviso 248 (1), 190 (1), 200 (a) IBID and under Section 135(1)(b)(1) of the Customs Act 1962 read with Section 13 (1) of the Foreign Exchange Regulation Act 1973, to set aside the Judgment dated 20.11.2009 passed by the Judicial Magistrate, No.III Salem in C.C.No. 32 of 2005, and to convict the Respondent/Accused herein with maximum sentence.

2. This Criminal Appeal is filed by the prosecution against Respondent therein. The Case in C.C.No. 32 of 2005, in which A1 was acquitted and A2 was convicted. Against the Judgment of Judicial Magistrate, No.III, Salem, the prosecution has filed the present Criminal Appeal before this Court. This Criminal Appeal ought to have been filed before the Sessions Court concerned and not before this Court. It is seen that the appeal is filed in the year 2011, by the prosecution.

3. Since, the appeal is not maintainable, the Registry is directed to send all the papers to the Jurisdictional Sessions Court and the respondent/A1 is directed to appear before the Jurisdictional Sessions Court on 08.07.2019 and the Sessions Court is directed to dispose of the appeal on merits and in accordance with law before 08.08.2019 and report the same before this Court.

4. The Registry is directed to send all the papers immediately to the Jurisdictional Court, to enable the Lower Appellate Court to dispose of the matter, within the time prescribed.

Sd/-  
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Sessions Judge, Salem.
2. The Judicial Magistrate No.3,  
Salem.  
(for communication of this order  
to the Jurisdictional Sessions Court)
3. The Public Prosecutor,  
High Court of Madras.

copy to: The Section Officer,  
Criminal Section, High Court, Madras.

+1 cc to Mr.A.P.Srinivas, Advocate, S.R.No.51820

+1 cc to Mr.B.Sathish Sundar, Advocate, S.R.No.52853

WEB COPY

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NM(CO)  
SSM(27/06/2019)