

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :07.02.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Appeal No.143 of 2012

M/s Bombay Burmah Trading Corporation Ltd.,
Rep.by its Power of Attorney Holder Mr.M.L.Devassy
.. Appellant/Complainant

/versus/

Mr.Saidu .. Respondent/Accused

Criminal Appeal has been filed under Section 378 of the Code of Criminal Procedure against the order of the learned District Munsif-cum-Judicial Magistrate, Valparai, Coimbatore District made in C.C.No.4 of 1999, dated 20.10.2011 acquitting the respondent/accused under Section 255(1) of the Code of Criminal Procedure 1973 with a prayer to set aside the same.

For Appellant :Mr.S.Mukunth for
M/s.Sarvabhauman Associates

For Respondent :Mr.G.Ramachandran

J U D G M E N T

This Criminal Appeal is preferred against the order of acquittal passed by the learned District Munsif-cum-Judicial Magistrate, Valparai, Coimbatore in C.C.No.4 of 1999.

2.The criminal case was taken up on file based on the private complaint for the offence arising under Section 630 of Companies Act, 1956. Aggrieved by the acquittal order, the complainant has preferred this appeal under Section 378 of the Code of Criminal Procedure, 1973. This Court before admitting the appeal, has considered the grounds of appeal and granted leave in accordance with the provisions of Section 378(4) of Cr.P.C. However, later this Court had realised that after the amendment of the Code in the year 2008 by inserting proviso to Section 372 of Cr.P.C., aggrieved victim shall have right to prefer an appeal against the order of acquittal passed by the Court below before the Court where the appeal will ordinarily lie against the order of the conviction.

3. Earlier, this Court, after clarifying the legal position, considering Section 372 proviso and Section 378(4) of Cr.P.C, has taken a conscious decision in D.Prabhu v. R.Manikandan reported in 2016 (3) Madras Weekly Notes(Crl.)169 to remand back all the pending appeals erroneously filed under Section 378(4) of Cr.P.C., before the High Court.

4. In the light of the above judgment passed by this Court, this Criminal Appeal is disposed of and this appeal is transferred to the respective Sessions Court viz., the Court of Principal District and Sessions, Coimbatore forthwith. The learned Sessions Judge shall take the appeal on file. After due notice to the parties, the appeal may be disposed of in accordance with law.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Principal District and Sessions Judge, Coimbatore.
- 2.The District Munsif cum Judicial Magistrate, Valparai

Copy to
The Section officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.G.Ramachandran, Advocate sr 11556.
+1 CC to M/s.Sarvabhuman Associates sr 11039.

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SP(07/03/2019)