

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2019

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Cr1. R.C. No.1076 of 2012

Perumal

... Revision Petitioner/Appellant/Sole Accused

Vs.

T.Viswanathan

... Respondent/Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C., to set aside the judgment and order dated 25.06.2012 made in C.A.No.59 of 2012 on the file of the I Additional Sessions Court, Erode, confirming the judgment and order dated 14.02.2012 made in S.T.C.No.25 of 2011 on the file of the Judicial Magistrate Court No.II, Erode.

For Petitioner : Mr. M.Guruprasad

O R D E R

This Criminal Revision has been filed to set aside the judgment and order dated 25.06.2012 made in C.A.No.59 of 2012 on the file of the I Additional Sessions Court, Erode, confirming the judgment and order dated 14.02.2012 made in S.T.C.No.25 of 2011 on the file of the Judicial Magistrate Court No.II, Erode.

2. For the sake of convenience, the petitioner and the respondent will be referred to as accused and complainant, respectively.

3. The complainant initiated a prosecution in S.T.C.No.25 of 2011 before the Judicial Magistrate No.I, Erode under Section 138 of the Negotiable Instruments Act, 1881, against the accused, in which, by judgment and order dated 14.02.2012, the accused was convicted and sentenced to undergo six months simple

imprisonment and pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment.

4. The appeal in C.A.No.59 of 2012 filed by the accused was dismissed by the I Additional District Court, Erode, on 25.06.2012. Challenging the conviction and sentence, the accused has filed the present criminal revision.

5. Notice has been served on the complainant and his name is printed in the cause list, but, he has not entered appearance through an Advocate.

6. However, Mr.M.Guruprasad, learned counsel for the accused submitted that the complainant and the accused amicably settled the matter, filed a fresh criminal revision in Crl.R.C.No.1242 of 2012 in this Court and had the offence compounded by order dated 02.08.2013. The relevant portion of the said order reads as follows:

" 2. It is represented that the parties are residing at Erode and it is inconvenient for the parties to appear personally before the Court. The learned counsel appearing for both sides accept the terms of compromise to be voluntary, true and correct.

3. Considering the representation made by the learned counsel on both sides, the compromise is recorded. The conviction and sentence imposed on the petitioner by the trial Court are set aside and the petitioner/accused is acquitted of the charge under Section 138 of the Negotiable Instruments Act. The Criminal Revision Case is allowed in terms of the compromise. Consequently, M.P.No.1 of 2013 is ordered and M.P.No.1 of 2012 is closed. The fine amount, if already paid, is ordered to be refunded."

7. Mr.M.Guruprasad submitted that the accused had engaged another Advocate in Crl.R.C.No.1242 of 2012 and that is the reason, why the complainant has not appeared before this Court, even after service of notice. This Court called for the records in Crl.R.C.No.1242 of 2012 in order to check whether both cases are the same. On verification, this Court finds that both cases arose from the same prosecution in S.T.C.No.25 of 2011. Though the accused has adopted a practice which is to be deprecated, yet, this Court has no other alternative, but, to dismiss the revision petition.

Accordingly, the revision case stands dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The I Additional Sessions Judge,
Erode.
2. The Judicial Magistrate No.II,
Erode.

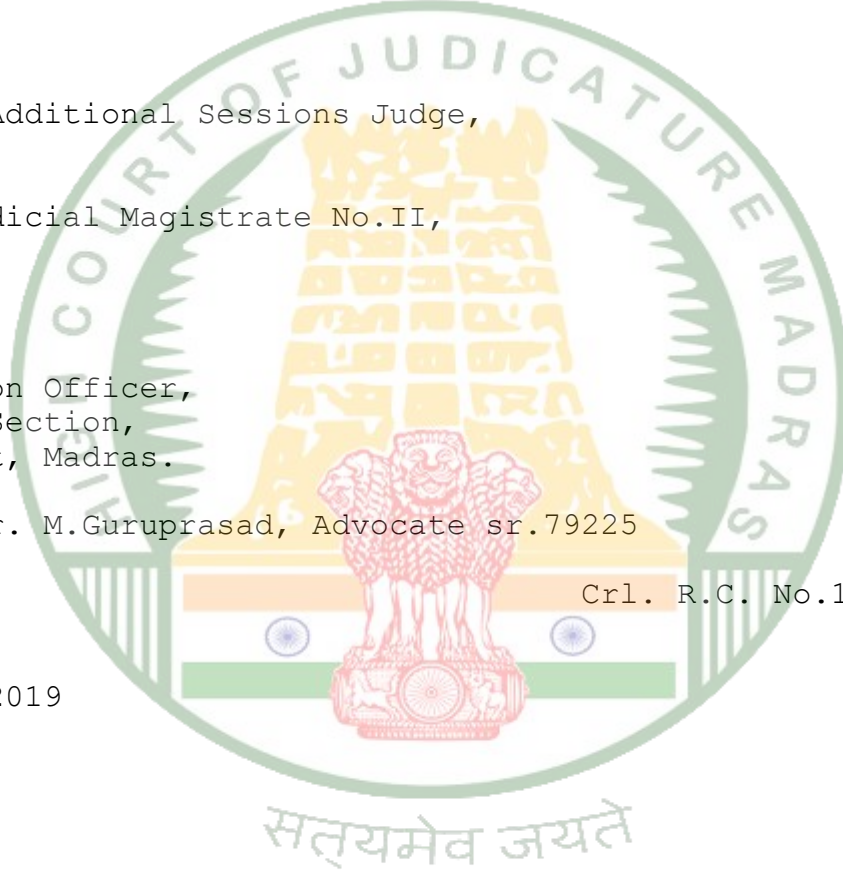
Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr. M.Guruprasad, Advocate sr.79225

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