

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2019

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.No.1236 of 2012

N.Sivachandran

.. Petitioner /Complainant

Vs.

P.Prasaddh

.. Respondent/Accused

Criminal Revision filed under Section 397 read with 401 Cr.P.C to call for the records of the lower Court in C.C.No.115 of 2012 on the file of the Judicial Magistrate of the Fast Track Court, Myladuthurai in respect of its order and judgment dated 11.07.2012 and modify the same insofar as it relates to the punishment considering the inadequacy.

For Petitioner : Mr.P.Srividhya
for Mr.S.Nethaji

For Respondent : Mr.UM.Ravichandran

JUDGMENT

This Criminal Revision has been preferred challenging the judgment and order dated 11.07.2012 passed by the Judicial Magistrate, Fast Track Court, Myladuthurai in C.C.No.115 of 2012.

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

3. The complainant initiated a prosecution in C.C.No.115 of 2012 before the Judicial Magistrate, Fast Track Court, Myladuthurai under Section 138 of the Negotiable Instruments Act, 1881 against the accused in which the trial Court by judgment and order dated 11.07.2012 convicted the accused and sentenced him to undergo simple imprisonment for one month and to pay a fine of Rs.2,000/-, in default to undergo one month simple imprisonment. Challenging the conviction and sentence, the accused has filed C.A.No.26 of 2012 before the Sessions Court, Nagapattinam and the case has now been transferred to the file of Additional District Court, Myladuthurai. Aggrieved by the flea-bite sentence awarded by the trial Court, the complainant has filed the present revision petition for enhancement of sentence.

4. Heard learned counsel for the complainant and the accused.

5. The trial Court has convicted the accused on 11.07.2012. The amendment to Section 372 Cr.P.C came into force on 31.12.2009 and therefore, the remedy for the complainant is before the Court where the appeal filed by the accused is pending and not before this Court in view of the Full Bench judgment of this Court in S.Ganapathy Vs. N.Senthilvel reported in (2016) 3 MLJ (CrL.) 641.

6. Therefore, Registry is directed to take photocopy of the petition and send the original revision petition along with the records to the Court of Additional District and Sessions Judge, Myladuthurai to be heard along with the pending appeal filed by the accused. The complainant and the accused are directed to appear before the Additional District and Sessions Court, Myladuthurai on 09.12.2019 at 10.30am. The learned Additional District and Sessions Judge, Myladuthurai is directed to treat the revision petition filed by the complainant before this Court as an appeal under the proviso to Section 372 Cr.P.C and hear the same along with the appeal that has been filed by the accused and pass orders in accordance with law within a period of 6 months from 09.12.2019.

This Criminal Revision Petition is disposed of with the above directions.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate, Fast Track Court, Myladuthurai
2. do Thro The Chief Judicial Magistrate, Mayiladuthurai.
3. The Additional District and Sessions Judge, Myladuthurai
4. The District and Sessions Court, Nagapattinam

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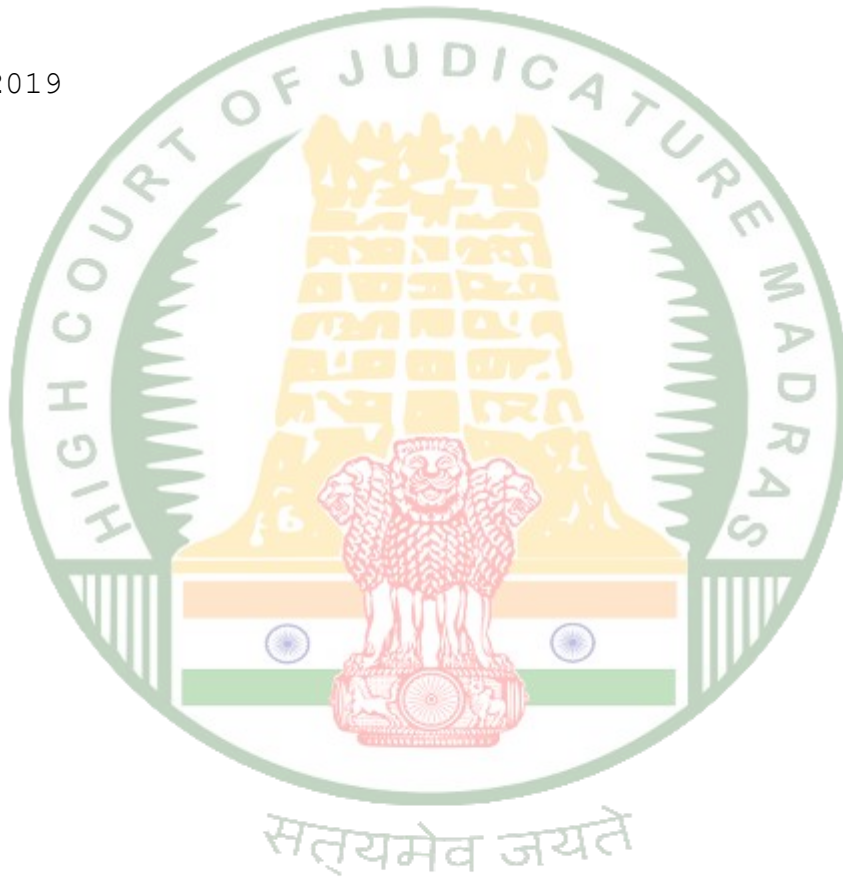
4.The Deputy Registrar,
Criminal Section,
High Court, Madras.

} with a direction to send
the original records to the
trial Court forthwith.

+lcc to Mr.B.Nethaji, Advocate sr.90773
+lcc to Mr.UM.Ravichandran, Advocate sr.90630

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gj (co)
nr 05/11/2019



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