

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 29.04.2019
CORAM
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.895 of 2012

Ayyappan

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Tiruvarur Town Police Station,
Tiruvarur District

.... Respondent

Prayer: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to setting aside the order dated 28.04.2011 passed in Crl.M.P.No.582 of 2010 in un-numbered Criminal Appeal of 2010 on the file of the Principal District and Sessions Judge, Tiruvarur against C.C.No.160 of 2008 on the file of the Judicial Magistrate, Thiruvarur.

For Petitioner : Mr.T.Srinivasaraghavan
For Respondent : Mr.T.Shanmuga Rajeswaran,
Government Advocate(crl.side)

O R D E R

This Criminal Revision Case has been preferred by the petitioner, against the order passed in Crl.M.P.No.582 of 2010 in un-numbered Criminal Appeal of 2010 dated 28.04.2011, on the file of the Principal District Sessions Judge, Tiruvarur against the order of the Judicial Magistrate, Tiruvarur in C.C.No.160 of 2008.

2. Based on the complaint given by one Maheswari, the revision petitioner was tried for offence under Sections 294(b) and 506(1) IPC. The trial Court has found the revision petitioner guilty for the offence under Section 294(b) IPC, convicted and sentenced him to pay a fine of Rs.2,000/-; in default sentenced to undergo 3 weeks Simple Imprisonment. As far as the offence under Section 506(1) IPC is concerned, the trial Court has found the revision petitioner not guilty. Aggrieved by that, the revision petitioner has preferred appeal before the Principal District Sessions Court, Tiruvarur with a delay of 566 days.

3. The lower appellate Court on considering the condone delay application, has dismissed the application holding that the trial Court has held the accused guilty on 18.08.2008. Jaundice, death of close relatives and missing of bundles are cited as the reasons to condone 566 days delay, however for none of the reasons, the revision petitioner has submitted the evidence to substantiate the same.

4. The learned counsel appearing for the revision petitioner would submit that though the revision petitioner has not submitted any document to substantiate his reasons for the delay, the valuable right of appeal need not be deprived. Since the revision petitioner is employed in Panchayat Union as a Clerk, conviction under Section 294(b) IPC will have cascading effect in his service record. So a fair opportunity to contest the conviction may be granted.

5. The learned Government Advocate (crl.side) would submit that the revision petitioner herein was working as Panchayat Clerk. When the defacto complainant Maheswari questioned him about the leakage in panchayat water pipe line, the accused in an inebricated manner, quarrelled with the defacto complainant and others, abused them with filthy language and threatened with dire consequences. The trial Court, after considering the evidence of PW.1 to PW.7 and Exhibits marked by the prosecution, has found the revision petitioner guilty of offence under Section 294(b) IPC, however, acquitted him for the offence under Section 506(1) IPC. The reason for condoning enormous delay of 566 days not been properly explained. Therefore, the lower appellate Court need not be entertained.

6. Heard the learned counsel appearing for the revision petitioner and the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

7. Though the revision petitioner has not produced any document to support his contention that the delay of 566 days was caused due to illness, missing of case bundles and death of his relatives, the Court below has lost sight of the fact that the conviction of the revision petitioner besides sufferings sentence also have a collateral impact on his service. Therefore, if there is any improper appreciation of evidence by the trial Court, his right to contest the same before the lower appellate Court cannot be deprived unless for strong reason. If the delay in filing the appeal is condoned, no prejudice is likely to cause to the defacto complainant or to the respondent police.

8. In the light of the above fact, the Criminal Revision Case is allowed. The lower appellate Court order of dismissal is

set aside. The lower appellate Court is directed to take the appeal on file after condoning the delay in presentation of appeal and cause notice to the Public Prosecutor representing the respondent and dispose the appeal on merit within a period of four months from the date of receipt of copy of the order.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

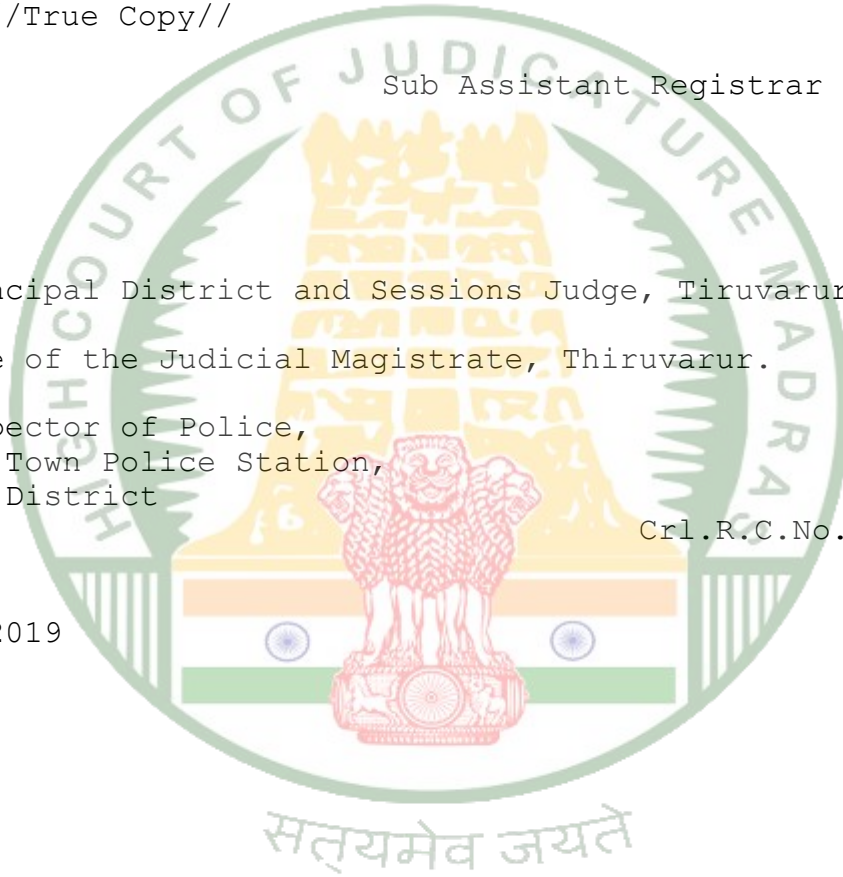
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To

- 1.The Principal District and Sessions Judge, Tiruvarur.
- 2.The file of the Judicial Magistrate, Thiruvarur.
- 3.The Inspector of Police,
Tiruvarur Town Police Station,
Tiruvarur District

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