

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

THE HONOURABLE Mr. JUSTICE P.N.PRAKASH

Crl.MP.Nos.9569, 9556, 9560 & 9558 of 2019
and
Crl.A.SR.Nos.33410, 33421, 33428 & 33437 of 2019

Deepak Kumar Jain @ Deepak Jain Petitioner/Appellant
in all Crl.A.SRs

Vs.

S.T.Saravanan Respondent/Respondent
in all Crl.A.SRs

Prayer in Crl.MP.No.9569/2019 : Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 637 days in filing appeal against the Judgment dated 16.08.2017 passed in C.A.No.25 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu.

Prayer in Crl.A.SR.No.33410/2019 : Criminal Appeal sought to be filed under Section 5 of the Limitation Act against the Judgment dated 16.08.2017 passed in C.A.No.25 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu setting aside the Judgment of conviction dated 28.06.2016 passed in STC.No.6710/2016 by the Hon'ble Judicial Magistrate, Tambaram for the offence under Section 138 of the Negotiable Instruments Act.

Prayer in Crl.MP.No.9556/2019 : Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 637 days in filing appeal against the Judgment dated 16.08.2017 passed in C.A.No.26 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu.

Prayer in Crl.A.SR.No.33421/2019 : Criminal Appeal sought to be filed under Section 5 of the Limitation Act against the Judgment dated 16.08.2017 passed in C.A.No.26 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu setting aside the Judgment of conviction dated 28.06.2016 passed in STC.No.6711/2016 by the Hon'ble Judicial Magistrate, Tambaram for the offence under Section 138 of the Negotiable Instruments Act.

Prayer in CrI.MP.No.9560/2019 : Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 637 days in filing appeal against the Judgment dated 16.08.2017 passed in C.A.No.27 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu.

Prayer in CrI.A.SR.No.33428/2019 : Criminal Appeal sought to be filed under Section 5 of the Limitation Act against the Judgment dated 16.08.2017 passed in C.A.No.27 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu setting aside the Judgment of conviction dated 28.06.2016 passed in STC.No.7020/2013 by the Hon'ble Judicial Magistrate, Tambaram for the offence under Section 138 of the Negotiable Instruments Act.

Prayer in CrI.MP.No.9558/2019 : Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 637 days in filing appeal against the Judgment dated 16.08.2017 passed in C.A.No.28 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu.

Prayer in CrI.A.SR.No.33437/2019 : Criminal Appeal sought to be filed under Section 5 of the Limitation Act against the Judgment dated 16.08.2017 passed in C.A.No.28 of 2016 by the Hon'ble Principal Sessions Judge at Chengalpattu setting aside the Judgment of conviction dated 28.06.2016 passed in STC.No.7021/2013 by the Hon'ble Judicial Magistrate, Tambaram for the offence under Section 138 of the Negotiable Instruments Act.

For Petitioner : Mr.Ramesh Kumar Chopra
(in all CrI.A.SRs)

For Respondent : Mr.G.Murugendran
(in all CrI.A.SRs)

COMMON ORDER

For the sake of convenience, the parties are referred to as complainant and accused.

2. The complainant initiated proceedings in S.T.C.Nos.6710 of 2016, 6711 of 2016, 7020 of 2013 and 7021 of 2013 respectively, under Section 138 of the Negotiable Instruments Act, 1881 before the Judicial Magistrate, Tambaram against the accused in which the Trial Court convicted and sentenced the accused on 28.06.2016. Challenging the conviction and sentence, the accused preferred C.A.Nos.25 of 2016, 26 of 2016, 27 of 2016 and 28 of 2016 before the Sessions Court. Notice was issued to the complainant and the complainant entered appearance through

Advocates M/s. P.Sivakumar and S.Priya. At the time of granting suspension of sentence and bail, the Appellate Court directed the accused to deposit Rs.25,000/- before the Trial Court as the condition for granting the relief. Accordingly, the accused deposited the said amount. The learned Principal Sessions Judge, Kancheepuram at Chengalpattu heard C.A.Nos.25 of 2016, 26 of 2016, 27 of 2016 and 28 of 2016 and by order dated 16.08.2017 has acquitted the accused of the said offence. Thereafter, the complainant has now filed the CrI.A.SR.Nos.33410, 33421, 33428 & 33437 of 2019 against the acquittal with a delay of 637 days, to condone which the complainant has filed CrI.MP.Nos.9569, 9556, 9560 & 9558 of 2019 respectively, under Section 5 of the Limitation Act.

3. Heard the learned counsel appearing for the complainant and the learned counsel appearing for the accused.

4. Learned counsel for the complainant submitted that the counsel who was engaged by the complainant before the Sessions Court, did not even inform the complainant about the acquittal of the accused and that the complainant came to know that the accused was acquitted only when accused was taking steps to withdraw the sum of Rs.25,000/- that was deposited by him.

5. Per contra, the learned counsel for the accused refuted the contentions.

6. This Court gave its anxious consideration to the rival submission.

7. Presumption of innocence is a human right. The acquittal of the accused by the Sessions Court should not be disturbed easily. This is not a police charge sheet case, where the defacto complainant can plead that he was not aware about the result of the prosecution. This is a case which was initiated by the petitioner as a private complaint and the complainant received notice from the Sessions Court and engaged an Advocate to prosecute the appeal.

8. Under such circumstances, the explanation offered by the complainant for condoning the delay of 637 days is not satisfactory. Hence, these criminal miscellaneous petitions are dismissed. Accordingly, CrI.A.SR.Nos.33410, 33421, 33428 & 33437 of 2019 also stand rejected.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

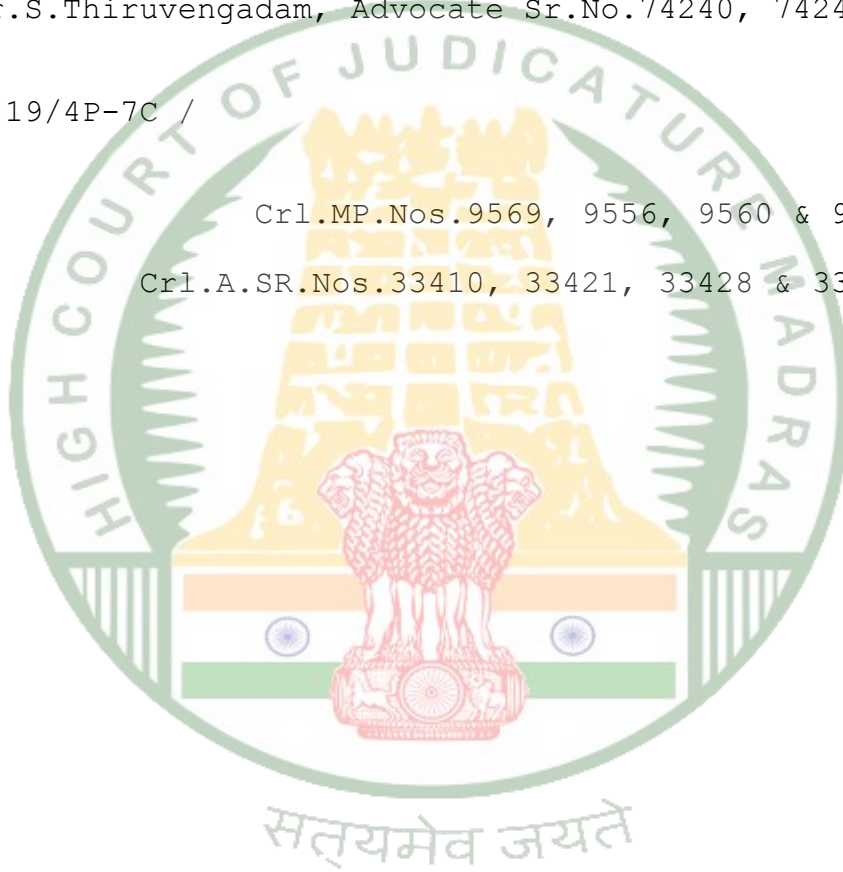
To

1. The Judicial Magistrate,
Tambaram.
2. -Do-Thro' The Chief Judicial Magistrate,
Tambaram.
3. The Principal Sessions Judge,
Kancheepuram District, Chengalpattu.

+3cc to Mr.S.Thiruvengadam, Advocate Sr.No.74240, 74241 & 74243

AKM/27.09.19/4P-7C /

Crl.MP.Nos.9569, 9556, 9560 & 9558 of 2019
and
Crl.A.SR.Nos.33410, 33421, 33428 & 33437 of 2019



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