



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C. (MD) No.49 of 2012

WEB COPY

1.Avudaiyappan

2.A.R.Manikandan

3.Sundarsingh

... Petitioners/Respondents 1 to 3
Accused

Vs.

1.The State Rep. by
The Sub Inspector of Police,
Tirumayam Police Station,
Pudukkottai District.

...1st Respondent/4th Respondent/
Complainant

2.Nagammal

...2nd Respondent/Appellant
PW1 De-Facto Complainant

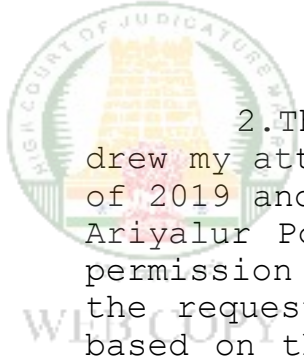
Prayer: Criminal Revision Case is filed under Section 398 r/w. 401 of Cr.P.C, to call for the records in Crl.A.No.7 of 2011, dated 31.10.2011, on the file of the Additional District and Sessions Judge, Fast Track Court, Pudukkottai setting aside the judgment of acquittal passed by the learned District Munsif Cum Judicial Magistrate, Thirumayam in C.C.No.216 of 2009, dated 05.04.2010 of the offences punishable under Sections 419, 465, 467, 468, 471 and 109 of I.P.C.

For Petitioners
For Respondents

: Mr.M.Karunanithi
: Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1
: Mr.J.Sulthan Basha for
M/s.Ajmal Associates for R2

O R D E R

The revision petitioners were prosecuted for the offence of cheating, forgery and abetment in C.C.No.216 of 2009, on the file of the learned Judicial Magistrate, Thirumayam. They were acquitted vide judgment dated 05.04.2010. Questioning the same, the victim filed C.A.No.7 of 2011 before the learned Additional District and Sessions Judge, Fast Track Court, Pudukkottai. Vide judgment dated 31.10.2011, the Appellate Court set aside the judgment of acquittal and remanded to the Trial Court with a direction to the CBCID for further investigation. This is under challenge, in this criminal revision case.



2.The learned counsel appearing for the revision petitioners drew my attention to the order dated 16.07.2019 in CrI.OP. Nos.10106 of 2019 and batch (Shanmugam and others Vs. The Inspector of Police, Ariyalur Police Station) in which, it was held that power to grant permission for further investigation can be exercised only based on the request made by the investigating agency. It cannot be done based on the petition filed by the defacto complainant or *suo-motu* by the Court, after the final report has been taken cognizance. In this case, the investigating agency has not made any such request. Therefore, as rightly pointed out by the learned counsel for the revision petitioners, the Appellate Court could not have on its own issued a direction for further investigation by the jurisdictional CBCID. In this view of the matter, the judgment impugned in this revision case is set aside and the matter is remitted to the file of the Appellate Court. C.A.No.7 of 2011 will be taken up afresh and disposed of as per law and in accordance with law based on the evidence on record. Since all the parties are represented through their counsel, the learned Appellate Court shall hear the appeal on 30.08.2019 and dispose of the appeal on merits and in accordance with law within a period of two months thereafter. The Registry is directed to retransmit the records to the Appellate Court. This criminal revision case is allowed accordingly.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To:

1.The Additional District and Sessions Judge,
Fast Track Court, Pudukkottai.

2.The District Munsif Cum
Judicial Magistrate, Thirumayam.

3.The Sub Inspector of Police,
Tirumayam Police Station, Pudukkottai District.

Copy to: The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.M.KARUNANITHI, Advocate SR-77526.

CrI.R.C. (MD) No.49 of 2012
25.07.2019