



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2019

CORAM

THE HONOURABLE MR. JUSTICE N. SESHASAYEE

Crl.O.P(MD).No.3243 of 2019 and
Crl.M.P(MD).No.1802 of 2019

WEB COPY

R.Rajasekar : Petitioner / accused
Vs.

K. Pandian : Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crl.R.C.No.37 of 2018 on the file of the learned 1st Additional Sessions Judge, Tiruchirappalli dated 23.10.2018 and set aside the same.

For petitioner : Mr. N. Ananthapadmanabhan
for M/s. APN Law Associates

For Respondent : Mr.S.K. Mani

ORDER

This Criminal Original Petition is filed to call for the records in Crl.R.C.No.37 of 2018, on the file of the learned 1st Additional Sessions Judge, Tiruchirappalli, dated 23.10.2018 and set aside the same.

2. The learned counsel appearing for the petitioner has made a statement that initially, the trial Court has rendered a finding that the complainant has not proved the case and acquitted the petitioner / accused, Vide his Judgment dated 04.06.2018. Thereafter, the complainant moved a petition to recall the said Judgment, because the conclusion arrived was contrary to his reasoning. As there is no provision to review or recall the order on merit, the learned trial Judge appeared to have returned this petition. The complainant had taken the matter in Crl.R.C.No.37 of 2018 before the 1st Additional Sessions Judge, Tiruchirappalli. The Revisional Court set aside the said order of Trial Court and remitted the matter back to the trial Court. Thereafter, the Trial Court convicted the petitioner / accused in C.C.No.323 of 2017.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The learned counsel appearing for the respondent submitted that by clerical error, the operative portion of the Judgment of the trial Court says that accused has been acquitted, even though, the finding of the Trial Court in the penultimate paragraph is to convict him.



5. It is apparent that in the area of cut-paste culture being followed by the Steno-Typist, such errors are bound to happen, but the responsibility is that of the Presiding Officer to take active part while delivering Judgments. It is not just the violation to procedural rights of the parties that are in question, but it also lead to avoidable wastage of judicial time.

6. In fact, the trial Court, at the initial stage has been right in rejecting the respondent's prayer for recalling / reviewing of the Judgment of acquittal and it is the I Additional District and Sessions Judge (PCR), Thiruchirapalli, who has directed the Magistrate to do what he had done and that has resulted in the present state of affairs.

7. Let it be, this Court now allows this petition and set aside the order of the Judgment of conviction passed by the learned Judicial Magistrate No.I, Trichy in C.C.No.323 of 2017, dated 07.02.2019. The respondent does have a remedy, as he can now prefer an appeal before the Sessions Court.

8. What is challenged in the order in CrI.R.C.No.37 of 2018 is since set aside, the consequential order dated 07.02.2019, passed by the learned Judicial Magistrate No.I, Trichy in C.C.No.323 of 2017, dated 07.02.2019 and since has been passed that has also been set aside.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/ True Copy /

Sub Assistant Registrar (CS)

trp
To

The 1st Additional Sessions Judge,
Tiruchirappalli

+1 CC to M/s.S.K.MANI, Advocate (SR-55400[F] dated 20/03/2019)
+1 CC to M/s.N.ANANTHAPADMANABAN, Advocate
(SR-55373[F] dated 20/03/2019)

CrI.O.P(MD).No.3243 of 2019 and
CrI.M.P(MD).No.1802 of 2019
19.03.2019