

Crl.M.P.No.3640 of 2020 in
Crl.A.SR.No.9930 of 2020

M.NIRMAL KUMAR., J.

This petition is for condonation of delay of 490 days in filing the appeal against the judgment of acquittal, dated 17.07.2018, passed by the learned Sessions Judge, Karaikal in Special S.C.No.2 of 2017.

2.Mr.D.Bharatha Chakravarthy, learned Public Prosecutor appearing for the petitioner/appellant submitted that the petitioner/Station House Officer, Nedungadu Police Station, Karaikal, filed a case against the respondent, for offence under Section 12 of the Protection of Children from Sexual Offence Act, 2012. He further submitted that the trial Court had given a wrong finding that the presumption under Section 29 of the Protection of Children from Sexual Offence Act, 2012 is not applicable to the cases registered under Section 12 of the Protection of Children from Sexual Offence Act, 2012. Further, the trial Court failing to look into the fact that as per Section 30 of the Protection of Children from Sexual Offence Act, 2012, there is a presumption with regard to sexual intention, which has not been looked

into by the trial Court. Thus, on a wrong premise, the trial Court, acquitted the respondent and the judgment of the trial Court is erroneous, which has to be interfered with. He further submitted that 60 days is the period for filing the appeal, which got expired on 17.09.2018 and the appeal was filed on 04.03.2020. After receiving the judgment of the trial Court, the same was sent to Law Department for opinion of the Special Public Prosecutor. On 25.09.2018 after getting opinion from the Special Public Prosecutor, the same was placed before the Director of Prosecution on 01.12.2018 to get his approval. Thereafter, the matter was placed before the Government and the Government of Pondicherry vide G.O.Ms.No.10, dated 01.02.2019 gave approval for filing the appeal. After issuance of the Government Order, the files were forwarded to the Director of Prosecution and thereafter to the Police. Further, the papers were misplaced and it could not be immediately traced, after sustained effort, the files were traced. Thereafter, the papers including the copy of the judgment and deposition were submitted to the office of the Public Prosecutor during January 2020. On 02.03.2020, the appeal was filed. Thus, the delay was unintentional and it is due to the official procedure and prayed to condone the delay.

3.Mr.R.Rajarathinam, Legal Aid Counsel for the respondent submitted that there is an inordinate delay of 490 days in filing the appeal. The explanation given by the learned Public Prosecutor is general. The Hon'ble Apex Court held that each day ought to be explained. He further submitted that the respondent got acquittal on 17.07.2018 and his liberty cannot be interfered and infringed, after such a long period and hence, the delay has not been properly explained.

4.Considering the submissions made on either side and being satisfied with the affidavit filed by the learned Additional Public Prosecutor, this Court is inclined to condone the delay. Hence, the delay of 490 days in filing the appeal, is condoned. The petition is, accordingly, ordered.

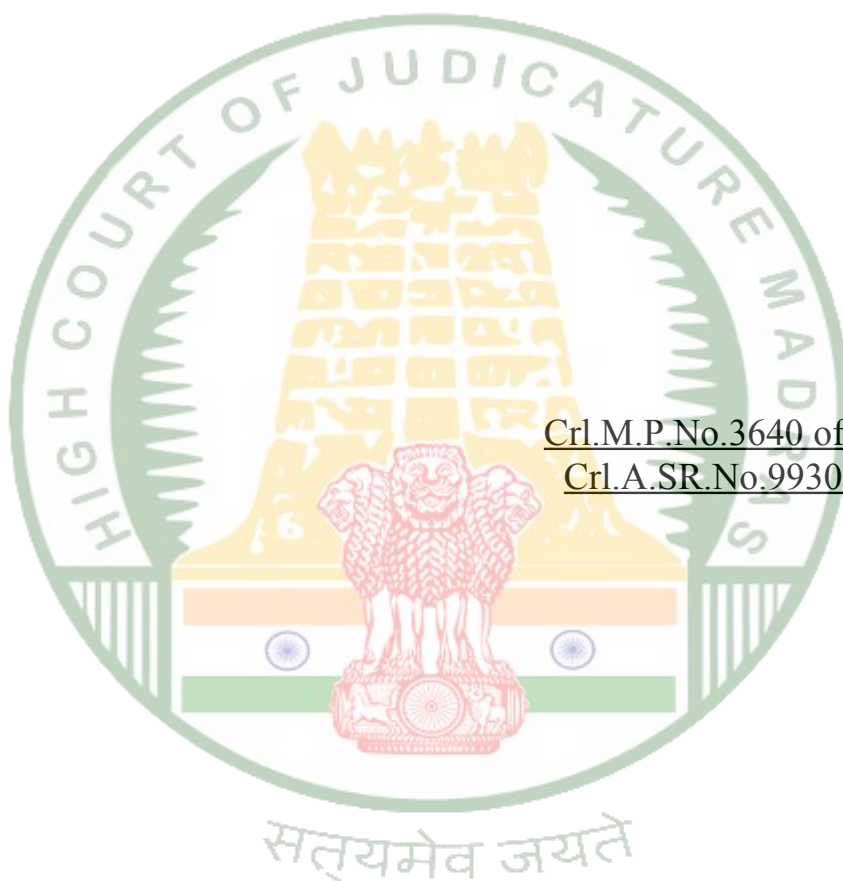
05.10.2020

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Note: Registry is directed to number the appeal, if it is otherwise in order.

M.NIRMAL KUMAR., J.

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