

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2020

DELIVERED ON : 14.10.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.14981 of 2020 in Crl.A.SR.No.23997 of 2020

M. Amit & Sons (HUF)
represented by its Karta
Amit M. Rajani
S/o B. Manohar
Aged about 39 years
No.105, New Avadi Road
Kilpauk
Chennai 600 010

Petitioner

vs.

M.M. Syed Sikkander
S/o Mohammed Mohideen
Aged about 57 years
Proprietor: M/s. Syed Bearing Centre
No.16, Begum Sahib III Street
Mount Road
Chennai 600 002

Respondent

Criminal Original Petition filed under Section 378(5) Cr.P.C. seeking grant of special leave to prefer appeal from the judgment and order of acquittal dated 31.01.2020 passed by the Metropolitan Magistrate (Fast Track Court No.I), Egmore, at Allikulam, Chennai 600 003 in C.C. No.7446 of 2016.

For petitioner Mr. L. Rajasekar

ORDER

For the sake of convenience, the petitioner and the respondent will be referred to as the complainant and the accused, respectively.

2 The complainant in this case is one Amit & Sons (HUF) represented by Amit M.Rajani. Amit M. Rajani initiated a prosecution in C.C. No.7446 of 2016 in the Court of the Metropolitan Magistrate (FTC No.I), Egmore at Allikulam under

Section 138 of the Negotiable Instruments Act, 1881, against the accused, in which, the trial Court, by judgment and order dated 31.01.2020, has acquitted the accused, aggrieved by which, the complainant has preferred the instant criminal original petition invoking Section 378(4) Cr.P.C. seeking leave of this Court to prefer an appeal thereagainst.

3 Heard Mr. L. Rajasekar, learned counsel for the complainant.

4 Leave under Section 378(4) Cr.P.C. to prefer an appeal against acquittal is not automatic and it can be granted only when there are prima facie materials to show that the order of acquittal suffers fundamental infirmities.

5 In a connected case, viz., Crl.O.P.No.14465 of 2020 in Crl.A SR.No.23980 of 2020, this Court has refused grant of leave to appeal sought by Heera A. Rajani, wife of Amit M. Rajani, who also initiated a prosecution under Section 138 of the Negotiable Instruments Act against the same accused, in which, the trial Court acquitted the accused. It is seen that on a single day, four prosecutions were initiated against the same accused, out of which, two prosecutions were by Amit M. Rajani and his wife Heera A. Rajani in respect of cheques that were given by the accused in the police station to one Sivaneswaran. That apart, the Magistrate has taken pains to calculate the alleged debt amount based on the statement of account (Ex.P.2) and has found that the debt amount can, at the most, be Rs.1,24,000/- and not Rs.1,48,000/- as claimed by the complainant. The reasoning given by this Court in dismissing the leave petition in Crl.O.P.No.14465 of 2020 in Crl.A SR.No.23980 of 2020 filed by Heera A. Rajani, wife of Rajani, will hold good for this petition as well.

6 In view of the above discussion, this Court holds that this is not a fit case to grant leave to prefer an appeal against the well considered judgment and order of acquittal.

As a sequel, this criminal original petition stands dismissed and ex consequenti, this criminal appeal stands rejected at the SR stage itself.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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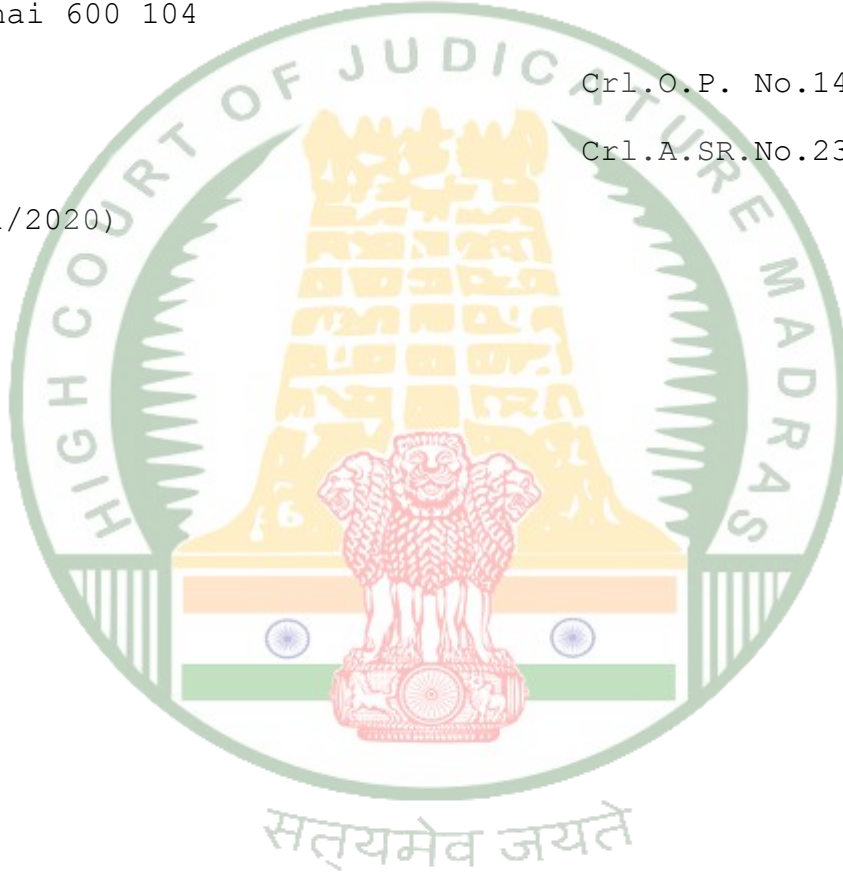
To

1 The Metropolitan Magistrate (Fast Track Court No.I)
Egmore
at Allikulam, Chennai 600 003

2 The Public Prosecutor
Madras High Court
Chennai 600 104

CrI.O.P. No.14981 of 2020
in
CrI.A.SR.No.23997 of 2020

CP(CO)
RMP((27/11/2020)



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