



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Second day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL RC(MD) Nos.433 & 434 of 2017

KONAYYAN GOVINDASAMY

... PETITIONER/RESPONDENT
SOLE ACCUSED
IN BOTH THE CASES

Vs

M/S.KULKARNI POWER TOOLS LTD.,
P.A.O. (SRINIVASAN),
NO.47, SRI GANESH NAGAR,
200 FEET ROAD, KOLATHUR,
CHENNAI-600 099.

... RESPONDENT/APPELLANT/
COMPLAINANT
IN BOTH THE CASES

Prayer in CRL RC(MD) No.433 of 2017:

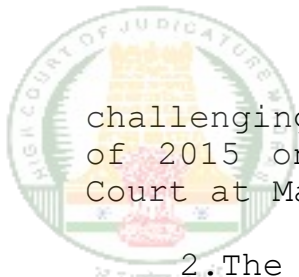
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to set aside the order passed in C.A.No.72 of 2016 dated 27.03.2017 on the file of VI-Additional District and Sessions Judge, Madurai reversing the order of the acquittal in S.T.C.No.421 of 2015 dated 02.07.2016 on the file of Judicial Magistrate No.1, Fast Track Court at Judicial Magistrate Level, Madurai.

Prayer in CRL RC(MD) No.434 of 2017:

To set aside the order passed in C.A.No.73 of 2016 dated 27.03.2017 on the file of VI-Additional District and Sessions Judge, Madurai reversing the order of the acquittal in S.T.C.No.422 of 2015 dated 02.07.2016 on the file of Judicial Magistrate No.1, Fast Track Court at Judicial Magistrate Level, Madurai.

Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.E.SOMASUNDARAM, Advocate for the petitioner in both the cases and of Mr.G.MOHAN KUMAR, Advocate on behalf of the Respondent in both the cases, the court made the following order:-

These Criminal Revision Cases are directed against the Judgment, dated 27.03.2017, made in Criminal Appeal Nos.72 & 73 of 2016 on the file of the learned VI Additional District Judge, Madurai. The said appeal was filed by the respondent herein,



challenging the Judgment of the acquittal made in STC Nos.421 & 422 of 2015 on the file of the Judicial Magistrate No.I (Fast Tract Court at Magisterial level), Madurai.

2.The learned counsel appearing for the revision petitioner points out that the Hon'ble Full Bench of this Court, reported a decision in 2020 - MLJ - Criminal - Vol.3 - Page No.257, in the case of Rajalingam and others Vs. Suganthalakshmi. In Paragraph No.28, the said decision reads as follows :

"28.Accordingly, we answer the reference as under.

1. As against an order of acquittal passed by a Magistrate on a complaint, an appeal will lie only before the High Court, under Section 378 (4) of Cr.PC. In such cases, the complainant has to seek for Special leave under Section 378 (5) of Cr.PC. The first question in the order of reference is answered accordingly.

2.

(d) In cases, where, the Sessions Court has reversed the order of acquittal passed by the Magistrate and the same has been challenged by the accused before this Court by way of revision petition and the same is pending, the same should be treated as an Appeal pending before this Court against the order of Acquittal passed by the Magistrate, by disregarding the order passed by the Sessions Court. In all those cases, the complainant must file a transpose petition and the Registry must convert the same as Criminal Appeals by showing the complainant as the Appellant and the accused as the respondent. The Memorandum of grounds of Criminal Appeal filed before the Sessions Court will be considered as the memorandum of grounds of appeal in the renumbered Criminal Appeal.

(e) In cases, where the Sessions Court has reversed the order of acquittal passed by the Magistrate and convicted the accused and this order has not become final or the same has not been acted upon, the accused person has to necessarily challenge the said order by filing a criminal revision petition before this Court by quoting this Full Bench judgement. After notice is served on the complainant and he enters appearance, the same should be treated as an Appeal pending before this Court against the order of Acquittal passed by the Magistrate, by disregarding the order passed by the Sessions Court. In all those cases, the complainant must file a transpose petition and the Registry must convert the revision as Criminal Appeal by showing the complainant as the Appellant and the accused as the respondent. The



Sessions Court will be considered as the memorandum of grounds of appeal in the renumbered Criminal Appeal."

3. Respectfully, following the said decision, I suo-motu transpose the Revision petitioner as the Respondent and the Respondent / Complainant as the Appellant.

4. The Registry is directed to assign a fresh number. The Memorandum of Appeal filed by the Respondent before the Sessions Court will be treated as the Memorandum of grounds of Appeal in these Criminal Appeals. The judgment passed by the Sessions Court will of-course be disregarded.

5. These Criminal Appeals are to be listed before the Concerned Portfolio Judge, after such transposition and renumbering.

sd/-
22/12/2020

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI
- 2 THE JUDICIAL MAGISTRATE NO.1,
FAST TRACK COURT AT JUDICIAL MAGISTRATE LEVEL,
MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL RC(MD) Nos.433 & 434 of 2017
Date :22/12/2020

rm
JM/PN/SAR IV/08.01.2021/3P/5C