

Crl.O.P.No.12378 of 2021 in
Crl.A.Sr.No.17198 of 2019

P.VELMURUGAN, J.

This petition is filed to grant special leave to the petitioner for preferring the above appeal against the order of acquittal passed by the learned Judicial Magistrate, Perambalur in C.C.No.321 of 2004, dated 26.09.2018.

2. The petitioner/appellant herein is the complainant in C.C.No.321 of 2004, on the file of the learned Judicial Magistrate, Perambalur. As the petitioner/complainant was not present on 29.06.2018, the learned Judicial Magistrate, dismissed the petition and acquitted the accused/respondent. Since the complaint filed by the petitioner was dismissed, the present Criminal Original Petition has been filed to grant leave to file an appeal.

3. The learned counsel for the petitioner would submit that on filing private complaint filed by the petitioner/complainant, the learned Magistrate, after taking cognizance had issued summons to the respondent/accused. The respondent/accused wantonly evaded the service of the summons and failed to appear and frequently shifting the address. Once again summons was ordered and the same was sent through the Court, as usual the respondent/accused failed to appear on 29.06.2018 and also the complainant and his counsel called absent, hence, the learned Judicial Magistrate had dismissed the complaint for non-appearance of the complainant and his counsel. It is further contended that the petitioner had not been given an opportunity before passing the

dismissal order to put forth the reasons for his absence and therefore, he deprived of being prosecuting the respondent, who had cheated the petitioner by dishnouring the cheque to the tune of Rs.3,00,000/-.

4. On being satisfied with the averments made in support of this petition and also considering the submissions made by the learned counsel for the petitioner, this Court finds that there are arguable grounds *prima facie* for filing the appeal. Accordingly, leave is granted.

5. The Registry is directed to number the Criminal Appeal, if it is otherwise in order and issue notice to the respondent. Private notice is also permitted.

6. List the matter, after filing proof of service.

16.07.2021

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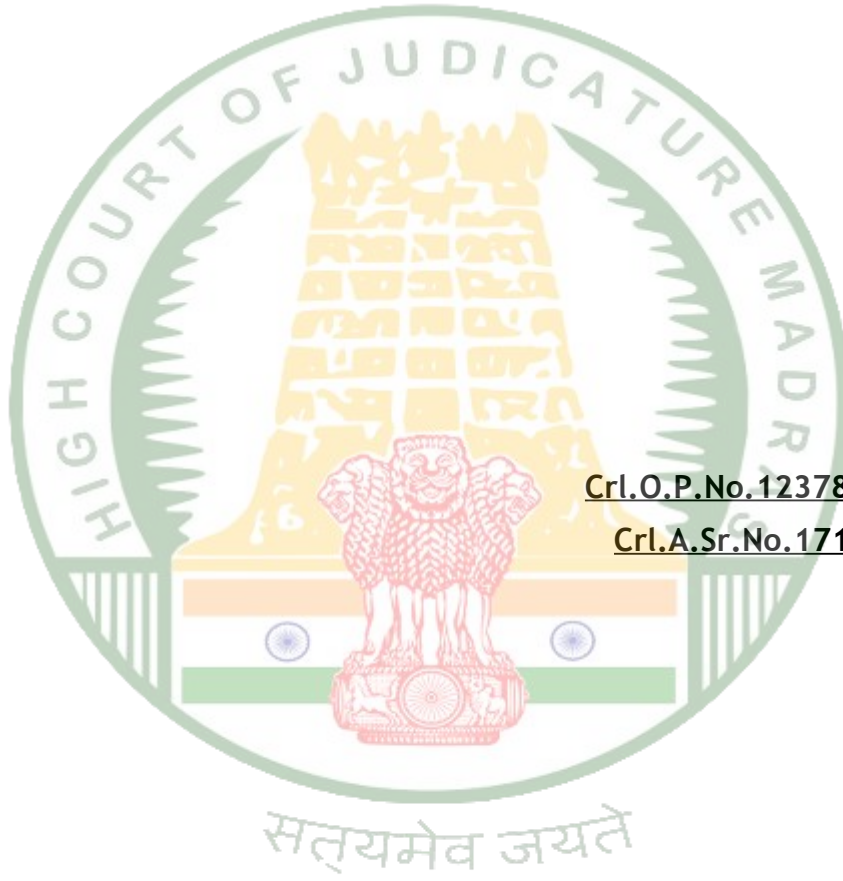
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