



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved Date : 15.11.2021

Delivered Date : 02.12.2021

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CORAM:

**THE HONOURABLE MRS. JUSTICE R. THARANI**

**Crl.R.C. (MD) No. 805 of 2021**

Saravanan

... Petitioner/Appellant/Accused

vs.

The State represented by  
The Inspector of Police,  
Bodi Town Police Station,  
Theni District.

(Crime No.33 of 1996)

... Respondent/Respondent/Complainant

**PRAYER :** Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the Assistant Sessions Court (Sub Court), Theni, in S.C.No.41 of 2009 vide its order dated 08.08.2016 which was subsequently confirmed by the learned Additional District (Fast Track) Judge, Theni, Theni District in C.A.No.48 of 2016 vide his judgment dated 27.06.2018.

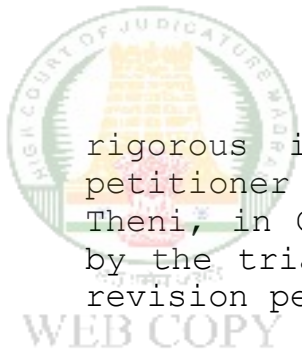
For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.K.Sanjay Gandhi  
Government Advocate

**O R D E R**

This Criminal Revision Petition has been filed to set aside the order in S.C.No.41 of 2009 dated 08.08.2016 on the file of the Assistant Sessions Court (Sub Court), Theni, which was subsequently confirmed by the learned Additional District (Fast Track) Judge, Theni, Theni District in C.A.No.48 of 2016 dated 27.06.2018.

2. The case was registered against the petitioner in Crime No.33 of 1996 on the file of the Bodi Town Police Station and the same was taken on file as S.C.No.41 of 2009 on the file of the Assistant Sessions Judge, Theni. The Assistant Sessions Judge, Theni, found the first accused Saravanan guilty under Section 326 IPC and convicted and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two months



rigorous imprisonment. Against the conviction and sentence, the petitioner has filed an appeal before the Additional District Court, Theni, in Crl.A.No.48 of 2016. That appeal was dismissed for default by the trial Court. Against the same, the petitioner has filed this revision petition.

3. On the side of the revision petitioner, it is stated that the first appellate Court failed to give an opportunity to the petitioner to represent the case. Even if there was no representation on the side of the appellant, it is the duty of the appellate Court to engage a legal aid counsel to represent the appellant. More over, the appeal was not dismissed on merits and a non speaking order was passed by the appellate Court. The first appellate Court has failed to appreciate the material contradiction regarding the place of the occurrence and the manner of the occurrence and the first appellate Court in a mechanical manner has dismissed the appeal for default.

4. It is seen the appeal was filed in the year of 2016 and there was no representation on the side of the appellant and hence, the appellate Court dismissed the appeal for default.

5. An opportunity for the appellant is to be given to represent his case in the interest of justice. Hence, the order of the appellate Court is set aside. The case is remitted back to the appellate Court. The appellate Court is directed to dispose of the case within a period of two months from the date of receipt of copy of this order. However, since there was no representation on the side of the appellant, the appellant is hereby directed to make his submission before his first appellate Court without any delay and to co-operate in submitting the arguments. Incase, the appellant failed to engage a counsel or if the appellant is not ready to argue the case, the first appellate Court is directed to engage a legal aid counsel and to proceed with the case on merits.

6. With the above directions, this Criminal Revision Case is allowed.

Sd/-

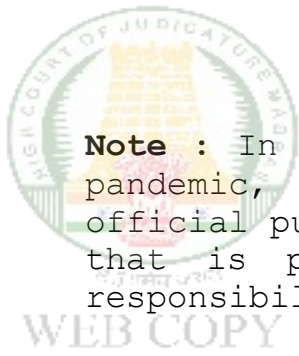
Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)

csm/mga



**Note :** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional District Judge(Fast Track Court),Theni.
- 2.The Additional Sessions Judge,  
Sub Court,Theni.
- 3.The Superintendent of Prison,  
Central Prison,  
Madurai.
- 4.The Inspector of Police,  
Bodi Town Police Station,  
Theni District.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Copy to:

The Section Officer(Criminal Records),  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate ( SR-37083[F] dated  
02/12/2021 )

**Crl.R.C. (MD) No.805 of 2021**

02.12.2021

MGJ(02.12.2021) 3P 9C