



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.04.2021

Pronounced on : 29.07.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.R.C.(MD)No.404 of 2017

and

Crl.M.P.(MD)No.4053 of 2017

WEB COPY

1.D.James Srinivasan

2.A.Sureshkumar

... Petitioners/Respondent 2&3/

Respondent 2&3

Vs.

1.S.Manoharan

...1st Respondent/Petitioner/Appellant

2.The State Rep. by

The Inspector of Police,
Karur Town Police Station,
Karur District.

...2nd Respondent/1st Respondent/

(Crime No.543 of 2005)

1st Respondent

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order dated 18.04.2017 passed in Crl.M.P.No.843 of 2016 made in Crl.A.No.64 of 2016 on the file of the learned Principal Sessions Judge, Karur in allowing the application of condone delay filed by the first respondent along with the above criminal appeal and to allow this criminal revision case.

For Petitioners : Mr.C.Jeganathan
For M/s.Veera Associates.

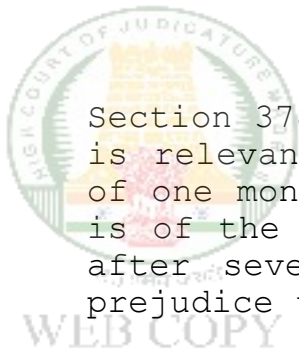
For Respondents : Mr.V.Balaji for R1
Mr.K.K.Ramakrishnan,
Additional Public Prosecutor for R2.

O R D E R

This Criminal Revision Case had been prepared against the order dated 18.04.2017 passed in Crl.M.P.No.843 of 2016 in Crl.A.No.64 of 2016 on the file of the learned Principal Sessions Judge, Karur.

2.The learned Counsel for the revision petitioners submitted that the revision petitioners had challenged the order passed by the learned Principal District Judge in allowing the petition Cr.M.P.No.843 of 2016, whereby, the order of acquittal was challenged by the revision petitioner.

3.It is his contention that the under Section 378 of Cr.P.C., 90 days time limit is granted to file the petition. But here, it is for the de-facto complainant to file the petition.



Section 378 Cr.P.C., is not the relevant. Section 372 Cr.P.C. alone is relevant. Therefore, condonation of delay of beyond the period of one month causes injustice to the revision petitioner. The case is of the year 2007 and ended in acquittal in the year 2016. Now, after several years, if this petition is allowed, it will cause prejudice to the petitioner herein.

4.The learned Counsel for the revision petitioners would further submit that as far as the revision petitioners are concerned, the de-facto complainant ought to have approached the Court within a reasonable period of one month, whereas, the de-facto complainant claimed that they have ninety days time to file an appeal. In this case, the reason stated by the them was that the de-facto complainant has suffered from jaundice and seeks condonation of delay of 100 and odd days. That cannot be a case. That need not be considered leniently. The reasons putforth by the de-facto complainant are unjustified and unreasonable. Therefore, the Criminal Revision Case has been filed.

5.The learned Additional Public Prosecutor would submit that Section 372 Cr.P.C., grants the power to the de-facto complainant to prefer an appeal in cases where the State had not preferred any appeal against the acquittal. When the de-facto complainant feels aggrieved by the quantum of sentence or acquittal, he/she can approach the Court to file the appeal, which is the beneficial legislation and it is not the number of days concerned, where the reasons putforth by the person concerned, who is the petitioner in such petition.

6.As far as the defacto complainant is concerned, he/she has to engage a Counsel and obtain certified copies from the Courts, only then, he/she can file such petition or appeal against the acquittal. Therefore, the reasons putforth by the de-facto complainant as above has to be condoned by any Court.

7.The learned Counsel for the first respondent/de facto complainant appeared through virtual mode and submitted his submissions. As per his submissions, due to Jaundice, he could not contact his counsel and instruct him to proceed with further steps. After recovering from Jaundice, he had engaged a counsel and took copies of the judgment and depositions from the Court of the learned Judicial Magistrate No.I, Karur. Therefore, there was delay. He had mentioned in his petition that he had filed a petition for condonation of delay in filing the appeal against the acquittal. He had prepared a complaint based on which, a case in Crime No.543 of 2005 was registered by the second respondent herein and he had laid the final report. Based on which, C.C.No.836 of 2007 was tried by the learned Judicial Magistrate No.I, Karur. Against the order of acquittal the State had not prepared appeal. It is defacto complainant, who had filed the appeal. The provisions in the



appeal against the order of acquittal against the accused.

8.The point for consideration in this Criminal Revision Case is whether the order passed by the learned Principal Sessions Judge, Karur in Crl.M.P.No.843 of 2016 in Crl.A.No.64 of 2016, dated 18.04.2017 for condoning the delay of 23 days in filing an appeal against the judgment passed by the learned Judicial Magistrate No.I, Karur in C.C.No.836 of 2011, dated 11.07.2016 is to be set aside.

9.Considering the detailed order passed by the learned Principal Sessions Judge, Karur and the reasoning given by him in the petition filed by the first respondent/defacto complainant in Crl.M.P.No.843 of 2016 stating that the first respondent was indisposed due to ill-health. Only after his recovery, he could contact his counsel and initiated steps to file an appeal against the acquittal. The reasons given by the learned Principal Sessions Judge, Karur is found acceptable.

10.Considering the objections having been filed by the first respondent/defacto complainant and not by the State, a chance should be given to the first respondent/defacto complainant, the victim of a crime to agitate his right. The objections raised by the revision petitioners herein that the interpretation of the learned Principal Sessions Judge, Karur cannot at all be accepted as in Criminal Procedure Code provides the victim to agitate his right by filing appeal against the acquittal. The same cannot be lost sight, considering the valuable right of the victim of a crime. Therefore, in the interest of justice, the interpretation and the reasonings given by the learned Principal Sessions Judge, Karur is accepted and the grounds of the Criminal Revision Case cannot be accepted, considering the valuable right of the victim of a crime.

11.In the light of the above observations, the point for consideration is answered against the revision petitioners and the order passed by the learned Principal Sessions Judge, Karur, in Crl.M.P.No.843 of 2016 in Crl.A.No.64 of 2016, dated 18.04.2017 cannot be set aside. This Criminal Revision Case is dismissed. The learned Principal Sessions Judge, Karur, is directed to number the appeal, if it is otherwise in order and dispose of the appeal as per law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

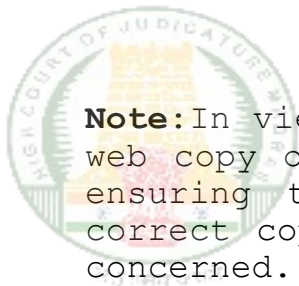
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Sub Assistant Registrar(CS)

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To:

- 1.The Principal Sessions Court,
Karur.
- 2.Judicial Magistrate No.1, Karur.
- 3.The Inspector of Police,
Karur Town Police Station,
Karur District.
- 4.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.VEERA ASOCIATES, Advocate (SR-24499[F] dated 29/07/2021)

Crl.R.C. (MD)No.404 of 2017
29.07.2021

RD(13.08.2021) 4P 7C