



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.R.C.No.1017 of 2021

Subramanian ...Petitioner / Defacto Complainant
Vs.

1.Ravi

2.Veeramani

3.Vijayendhiran ...Respondents / Accused 2 to 4

4.State, Rep by its
Inspector of Police
Keelaiyur Police Station
Nagapattinam District
Crime No.27 of 2015 ...Respondent / Complainant

PRAYER : Criminal Revision filed under Section 397 & 401 Cr.P.C., praying to call for the records relating to the orders made in Cr.M.P.No.545 of 2020 in C.A.No.63 of 2018 dated 02.02.2021 on the file of the learned District and Sessions Judge, Nagapattinam District and to set aside the same and restore C.A.No.63 of 2018 for fresh disposal on merits by way of allowing the criminal revision petition.

For Petitioner : Mr.C.Mohan Raj
For Respondents : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)
for R4
R1 to R3 - No appearance

O R D E R

This revision arises out of an order passed by the learned Sessions Judge, Nagapattinam in Crl.M.P.No.545 of 2020 in C.A.No.63 of 2018

2. The appeal in C.A.No.63 of 2018 itself is preferred by the revision petitioner who is the victim of the offence alleged in C.C.No.36 of 2015 on the file of the learned Judicial Magistrate No.II, Nagapattinam. The appeal preferred by the revision petitioner / victim of the offence came to be dismissed for default on 18.09.2019, for restoring which, the revision



petitioner has preferred CrI.M.P.No.545/2020. This was dismissed by the learned Session Judge on the ground that there is no provision for restoration, relying on Section 386(e) of Cr.P.C.

3. In this case, notice of revision has already been served on the private respondents/accused, and they have not chosen to enter appearance. There is a fundamental flaw which this Court notices in the approach of the learned Sessions Judge. In the first place, there is no provision in Cr.P.C., for dismissing the appeal for default and the learned Judge appeared to have grabbed the authority which is not vested in the Code. It is a wrong exercise of jurisdiction, and necessarily have to be interfered with if not under any other provision, atleast under Section 482 Cr.P.C., Therefore, this Court deems it appropriate to allow the present revision.

4. In the result, the revision petition is allowed and C.A.No.63 of 2018 is restored to the file of the District and Sessions Court, Nagapattinam. The learned Sessions Judge is now required to hear the matter and dispose of the appeal as per law as expeditiously as possible in strict adherence to the provisions of Cr.P.C.,

Sd/-

Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

ds

To:

1.The District and Sessions Judge,
Nagapattinam.

2.The Judicial Magistrate No.II,
Nagapattinam.

3.The Inspector of Police
Keelaiyur Police Station
Nagapattinam District

4.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+1cc to Mr.R.Rajesh Vivekananthan, Advocate Sr.No.9753

Cr.R.C.No.1017 of 2021

GPL(CO)

RVM(01/03/2022)