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CRL.R.C.No.1423 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.1423 of 2018

K.Prabu

... Petitioner

Vs.

M.Selvaraj

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set-aside the order of conviction dated 02.11.2018 in C.A.No.73 of 2018 on the file of the II Additional District and Sessions Judge, Erode.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.R.Prabakar

ORDER

This Criminal Revision case has been filed to set-aside the order of conviction dated 02.11.2018 in C.A.No.73 of 2018 on the file of the II Additional District and Sessions Judge, Erode, thereby reversed the findings of Trial Court in STC.No.141 of 2016 on the file of the Judicial



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Magistrate (Fast Track Court No.II), Erode, thereby acquitted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act.

2. Heard both sides.

3. It is seen that the petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. The Trial Court found him not guilty and acquitted the petitioner. Aggrieved by the same, the respondent filed an appeal before the learned II Additional District and Sessions Judge, Erode and the same was allowed and convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo three months simple imprisonment and awarded compensation for a sum of Rs.25,00,000/-.

4. The learned counsel for the petitioner submitted that in the full bench Judgment of this Court reported in **2020 (4) CTC 1**, in the case



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of ***“K.Rajalingam Vs R.Suganthalakshmi” and batch,*** held that, in the 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.

5. In view of the Judgment passed by this Court, the order of conviction dated 02.11.2018 in C.A.No.73 of 2018 on the file of the II Additional District and Sessions Judge, Erode is hereby set aside. The respondent is at liberty to file a transpose petition before this Court,



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challenging the order of acquittal passed in STC.No.141 of 2016 on the file of the Judicial Magistrate (Fast Track Court No.II), Erode, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the petition, the Registry is directed to list it along with this Criminal Revision.

6. Accordingly, this Criminal Revision case stands allowed.

29.09.2022

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The II Additional District and Sessions Judge, Erode.

2. The Judicial Magistrate (Fast Track Court No.II), Erode.



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G.K.ILANTHIRAIYAN, J

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