



Crl.R.C.No.1867 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1867 of 2023

A.Saravanan

... Petitioner

Vs.

1.State by

The Inspector of Police,
M.4, Redhills Police Station,
Tiruvallur.
(Cr.No.262/2018).

2.M.Chandru

3.A.Muthu

4.A.Kumaran

5.A.Arumugam

... Respondents

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order dated 21.03.2023 in Crl.M.P.No.4073/2022 in Crl.A.SR.No.4434 of 2022 passed by the learned Principal Sessions Court, Thiruvallur.

For Petitioner : Mr.D.Ashokkumar

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

For R2 : No Appearance



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ORDER

This Criminal Revision Case has been filed to set aside the order, dated 21.03.2023 in Crl.M.P.No.4073 of 2022 in Crl.Appeal SR.No.4434 of 2022 passed by the learned Principal District and Sessions Judge, Tiruvallur.

2.The learned counsel for the petitioner submitted that the petitioner/defacto complainant lodged a complaint to the 1st respondent and a case in Crime No.262 of 2018 was registered, on completion of investigation, charge sheet filed against the respondents 2 to 5 for offence under Sections 294(b), 323, 324 and 506(i) of IPC. During trial, seven witnesses examined as PW1 to PW7 and twelve documents marked as Exs.P1 to P12. The learned Judicial Magistrate No.II, Ponneri (trial Court) without proper appreciation of the evidence and materials produced had acquitted the respondents 2 to 5 by judgment, dated 01.02.2022. The learned counsel further submitted that the petitioner was not informed about the said acquittal, later, the petitioner came to know that the judgment of acquittal passed on 01.02.2022. Hence, the petitioner filed an appeal before



the learned Principal District and Sessions Judge, Tiruvallur (lower appellate Court) under Section 372 Cr.P.C., with delay of 207 days. The lower appellate Court dismissed the condone delay petition holding that the petitioner could not get the judgment copy in time and unable to engage a counsel to file an appeal are not proper. Assailing these points, the learned counsel prays for setting aside the impugned order.

3.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that the petitioner being the victim/injured person has got every right to file an appeal and there is an Amendment in Code of Criminal Procedure in the year 2009. The reason given by the victim appears to be proper. Hence, the victim's right of filing the appeal cannot be curtailed.

4.After the notice of this Court, the respondents 2 to 5 engaged a counsel Mr.J.Janarthanan, who appeared before this Court and his name printed in the cause list, but not appeared today.



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5.Considering the submissions and on perusal of the materials, it is not the case that the petitioner/victim was present on the day of judgment or he was informed about the judgment of acquittal. The petitioner/victim was examined as PW1 before the trial Court on 26.09.2019, thereafter, the other private persons examined in the year 2019, finally the Investigating Officer examined on 25.08.2021. After the examination of the petitioner as PW1, he was not aware about the progress of the case. In all fairness, the 1st respondent Police ought to have informed the petitioner about the status of the case, but it had not been done so. Such being the position, expecting the petitioner to follow the case and know about the date of the judgment cannot be reasonable.

6.In view of the same, the delay of 207 days is hereby condoned. The lower appellate Court is directed to take the appeal on file if it is otherwise in order.



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7. In the result, this Criminal Revision Case is allowed setting aside the impugned order, dated 21.03.2023 in Crl.M.P.No.4073 of 2022 in Crl.A.SR.No.4434 of 2022 passed by the learned Principal District and Sessions Judge, Tiruvallur.

29.11.2023

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1. The Principal District and Sessions Court,
Tiruvallur.

2. The Inspector of Police,
M.4, Redhills Police Station,
Tiruvallur.

3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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