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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.A(MD)No.136 of 2022

T.N.Vijayasankar @ Dhillip : Appellant/De-facto
Complainant

Vs.

1.Vetrivel
2.Jayamani
3.Ratna Prabha
4.Parimala
5.N.Sankar : R1 to R5/Accused
R.Mathavan (Died)
6.State represented by
The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District. : R6/Complainant

Prayer: Criminal Appeal is filed under section 378 of the Criminal Procedure Code, to call for the records and to set aside the order, dated 17/09/2021 passed in CC No.317 of 2017 on the file of the Judicial Magistrate Court, Nilakkottai.

For Appellant : Mr.B.Sargunam

For R1 to R5 : Mr.N.Dilip Kumar

For 6th Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

**J U D G M E N T**

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This Criminal Appeal has been preferred against the order of acquittal that was passed by the Judicial Magistrate, Nilakottai, Dindigul District, in CC No.317 of 2017, dated 1709/2021.

2.When the matter is taken up for hearing, this court entertained doubt whether the appeal will lie against the judgment of acquittal passed by the Judicial Magistrate. On that issue, the appellant was heard. He would submit that already leave was granted by this court in Crl.OP(MD)No.3762 of 2022, dated 24/02/2022, after satisfying with the reasons set out in the grant leave petition. But statutorily appeal will lie against the judgment of acquittal passed by the Judicial Magistrate, which instituted on the basis of the police report only before the Sessions court and not before the High Court. This is not a private complaint. Even no special reason has been set out in the grant leave petition to the effect in the peculiar facts and circumstances of the case, the appeal should be heard only by this court.



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3. Even though, the learned counsel appearing for the appellant would submit that he made out a special case to file the appeal before this court, no such ground has been made out in the grant leave petition. Absolutely, no special case has been made out. Even though special case has been made out, even then the appellant cannot confer the jurisdiction, which is not available to this court. So the appeal has to be presented before the concerned Sessions court. Even though the leave has been granted, the appellant cannot take advantage of the same.

4. This criminal appeal is ordered to be transferred to the file of the Principal District and Sessions Judge, Dindigul. The Registry is directed to send the entire papers to the Principal District and Sessions Judge, Dindigul forthwith. After receipt of the case bundle, the Principal District and Sessions Judge, Dindigul, may assign a new number and proceed in accordance with law, after ordering notice to the appellant and the respondents herein indicating the date of hearing.



5. With the above said direction, this criminal appeal stands transferred.

03/01/2023

Index:Yes/No
Internet:Yes/No

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To,

1. The Principal District Judge,
Dindigul.
2. The Judicial Magistrate,
Nilakottai, Dindigul District.
3. The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN, J



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03.01.2023