



CrI.O.P.No.29496 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.29496 of 2024

V.Kavitha

... Petitioner

Vs.

Murugesan

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to set aside the return docket order dated 13.06.2023 in unnumbered CrI.M.P.No.1203 of 2023 on the file of the Principal Sessions Judge, Namakkal against order of conviction in S.T.C. No.1376 of 2021 on the file of the Judicial Magistrate Court-1, at Namakkal and appeal may be taken on file and dispose the same.

For Petitioner : Mr.R.Narayanan



CrI.O.P.No.29496 of 2024

ORDER

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This Criminal Original Petition has been filed by the petitioner to set aside the return docket order dated 13.06.2023 in un-numbered CrI.M.P.SR.No.1203 of 2023 on the file of the Principal District and Sessions Judge, Namakkal, and to take the appeal on file, which was preferred against the judgment of conviction in S.T.C. No.1376 of 2021 on the file of the Judicial Magistrate No.1, Namakkal.

2. The case of the petitioner is that he was convicted for the offence under Section 138 of the Negotiable Instruments Act by the learned Judicial Magistrate No.1, Namakkal, in STC No.1376 of 2021 based on the complaint filed by the the respondent. Aggrieved by the same, the petitioner filed an appeal before the Principal District and Sessions Judge, Namakkal, but the same was returned by the appellate Court vide return docket order dated 13.06.2023 stating that there are discrepancies in the judgment of the lower Court. Hence, the present petition is filed.



CrI.O.P.No.29496 of 2024

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. Since no adverse order is being passed, notice to the respondent is dispensed with.

5. It is seen that the petitioner has preferred an appeal before the appellate Court challenging the judgment of conviction passed by the learned Judicial Magistrate No.1, Namakkal, whereas the Registry of the appellate Court has returned the grounds of appeal stating that there is a discrepancy in the amount mentioned in the Judgment of the lower Court. The petitioner, instead of approaching the Magistrate for correcting the Typographical/Arithmetical error, has approached this Court invoking Section 528 B.N.S.S. Since it is only a clerical/Arithmetical error and only the Author of the Judgment can correct the mistake, the petitioner is directed to approach the trial Court to carry out necessary corrections in the said judgement.



CrI.O.P.No.29496 of 2024

6. With the above direction, this Criminal Original Petition is disposed

of.

7. Further, Registry of the appellate Court is directed to return the certified copy of the Judgment of the trial Court and also the grounds of appeal to the petitioner.

25.11.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The Principal Sessions Judge
Namakkal

2. The Judicial Magistrate Court-1
Namakkal



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CrI.O.P.No.29496 of 2024

P.VELMURUGAN. J.

Ksa-2

CrI.O.P.No.29496 of 2024

25.11.2024