



Crl.O.P.(MD)No.9542 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.9542 of 2022

and

Crl.M.P.(MD)No.6137 of 2022

R.Pathampriyal

... Petitioner/Petitioner/Accused

Vs.

Guru Ayyanar

... Respondent/Respondent/Complainant

PRAYER:- Petition filed under Section 482 of Cr.P.C., to take on file and to number the appeal filed in C.A.Sr.No.2951 of 2022 on the file of the learned Principal District and Sessions Court/Vacation Court, Sivagangai against C.C.No.99 of 2020 on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District.

For Petitioner : Mr.V.Karuna

For Respondent : Mr.C.Susikumar

ORDER

The Criminal Original Petition has been filed to take on file and to number the appeal filed in C.A.Sr.No.2951 of 2022 on the file of the learned Principal District and Sessions Court/Vacation Court, Sivagangai against C.C.No.99 of 2020 on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District.



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2.The case of the petitioner is that the petitioner is an accused in the complaint filed under Section 138 of Cr.P.C., instituted by the respondent/complainant in C.C.No.99 of 2020 on the file of the learned Judicial Magistrate, Devakottai. After trial, the learned Judicial Magistrate convicted the petitioner and sentenced to undergo for a period of six months imprisonment and to pay a fine of Rs.1,50,000/- as compensation to the defacto complainant, in default, to undergo for a period of three months imprisonment. Challenging the same, the petitioner filed an appeal before the Principal District and Sessions Court/Vacation Court, Sivagangai, in C.A.Sr.No.2951 of 2022 and the same was returned by questioning the maintainability.

3.The learned counsel for the petitioner would submit that admittedly, the petitioner was convicted for a period of six months imprisonment with fine along with default clause and subsequently, the matter was repeatedly posted for judgment. However, for non-appearance before the trial Court, the petitioner filed an application under Section 317 of Cr.P.C., and the same was also dismissed. Even then the appeal was not taken on file, which is not sustainable. Hence, this Court may issue a direction to the learned Principal District and Sessions Court/Vacation Court, Sivagangai to number the appeal and pass appropriate orders.



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4.On perusal of the decision rendered by the trial Court in Para No.11, it reveals that once the Judgment is rendered, there is no question of adjourning the matter for compromise between the parties. Further, this Court vide order dated 06.02.2024, issue a direction to the trial Court to file a report. On perusal of the report shows that the case in C.A.S.R.No.2951 of 2022 has not been represented again before the trial Court.

5.In view of the above, the petitioner is directed to re-present the case in C.A.S.R.No.2951 of 2022 within a period of two weeks from the date of receipt of a copy of this order. If the case is re-presented, the learned Principal District and Sessions Court/Vacation Court, Sivagangai, is directed to number the appeal and proceed with the case in accordance with law.

6.With the above directions, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

13.02.2024

Internet : Yes/No

NCC : Yes/No

Sji

Note: Registry is directed to return the original petition filed by the petitioner along with this petition after replacing the same with a Xerox copy.



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M.DHANDAPANI, J.

Sji

To

- 1.The Principal District and Sessions Court/Vacation Court, Sivagangai.
- 2.The Judicial Magistrate, Devakottai, Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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