



CRL RC(MD)Nos.1180 and 1182 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)Nos.1180 and 1182 of 2025

T.Manoharan (Died)

T.Balakrishnan

... Petitioner/ Third Party / PW 35

Vs.

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
Thirunagar Police Station,
Madurai District.
(Crime No.25/2010)

...1st Respondent / 1st Respondent /
Complainant

2.Karthigaiselvi

3.Sivaperumal

... Respondents No.2 & 3 /
Respondents No.2 & 3 /
Accused Nos.1 & 2

PRAYER in CRL RC(MD)No.1180 of 2025: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records and set aside the Impugned Order dated 04.06.2025 passed in Crl.A.No.82 of 2016 on the file of the learned V Additional District and Sessions Judge, Madurai, Madurai District, against the judgment dated 25.07.2016 passed in C.C.No.539 of 2010 on the file of the learned Judicial Magistrate No.VI, Madurai, Madurai District.

PRAYER in CRL RC(MD)No.1182 of 2025: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records and



CRL RC(MD)Nos.1180 and 1182 of 2025

set aside the Impugned Order dated 04.06.2025 passed in Crl.A.No.81 of 2016 on the file of the learned V Additional District and Sessions Judge, Madurai, Madurai District, against the judgment dated 25.07.2016 passed in C.C.No.539 of 2010 on the file of the learned Judicial Magistrate No.VI, Madurai, Madurai District.

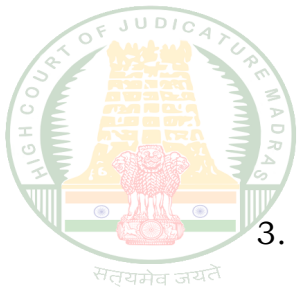
For Petitioner : M/s.M.Shunmalar,
For Mr.R.Ilayaraja

For R-1 : Mr.S.Ravi,
Additional Public Prosecutor

ORDER

Challenging the order passed by the learned V Additional District and Sessions Judge, Madurai, Madurai District, against the judgment dated 25.07.2016 passed in C.C.No.539 of 2010 on the file of the learned Judicial Magistrate No.VI, Madurai, Madurai District, dated 04.06.2025 passed in Crl.A.Nos.82 & 81 of 2016, these Criminal Revision cases are filed.

2. The petitioner herein is the third party / PW-35 in C.C.No.539 of 2010 on the file of the learned Judicial Magistrate No.VI Madurai, the learned Judicial Magistrate No.VI acquitted both accused in C.C.No.539 of 2010 by judgment dated 25.07.2016. Against which, the *defacto complainant* one Manoharan filed criminal appeals in Crl.A.Nos.81 and 82 of 2016.



3. However, when the matter was taken up, since there was no representation on the side of the appellant, recording the absence of the learned counsel as well as the appellant, the learned First Appellate Court dismissed the same by observing that the appellant is not interested in prosecuting the said appeal by the impugned order. Challenging the same, these Criminal Revision cases are filed.

4. The learned counsel for the petitioner categorically contended that a criminal appeal cannot be dismissed for default at any point of time, for which she relied upon the judgment of the Honourable Supreme Court in the case of **Bani Singh and others vs. State of UP**¹, in which the Honourable Apex Court had mandated that the dismissal of appeal for default or non prosecution without going into the merits of the case is illegal.

5. The learned Additional Public Prosecutor Mr.S.Ravi, though conceded the position of law pointed out by the Honourable Apex Court, categorically contended that only because of the absence of the appellant for a very long period of four years, the learned Additional District and Sessions Judge, Madurai, was compelled to dismiss the same and submitted that there is no infirmity in the same and pressed for dismissal of the

¹ (1996) 4 SCC 720



CRL RC(MD)Nos.1180 and 1182 of 2025

Criminal Revision petition.

WEB COPY

6. Heard the learned counsels on either side and carefully perused the materials available on record.

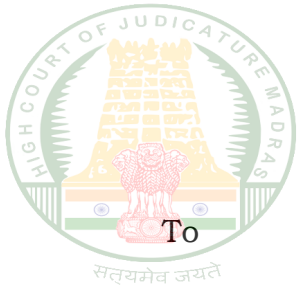
7. Fully fortified by the mandate of the judgment of the Honourable Supreme Court in **Bani Singh and others²** case, the impugned order is hereby set aside, and the matter is remanded back to the V Additional District and Sessions Judge, Madurai, Madurai District, for fresh adjudication.

8. With the above directions, these Criminal Revision cases are allowed. No costs.

28.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

² Extracted supra



CRL RC(MD)Nos.1180 and 1182 of 2025

- 1.The Inspector of Police,
Thirunagar Police Station,
Madurai District.
- 2.V Additional District and Sessions
Judge, Madurai,
Madurai District.
- 3.The Judicial Magistrate No.VI,
Madurai,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL RC(MD)Nos.1180 and 1182 of 2025

L.VICTORIA GOWRI, J.,

Sml

CRL RC(MD)Nos.1180 and 1182 of 2025

28.08.2025