

Petitioner Vs. Respondent

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Court : Chennai Madurai

Decided On : Apr-11-2016

Judge : P.N. Prakash

Appeal No. : Crl.O.P.(MD) SR Nos. 13514 & 13515 of 2015

Appellant : Petitioner

Respondent : Respondent

Judgement :

P.N. Prakash, J.

1. For the sake of convenience, the parties would be referred to as the complainant and the accused.

2. The complainant launched a prosecution in C.C.Nos.51 and 52 of 2014 before the learned Fast Track Court (Magisterial Level), Thoothukudi against the accused for an offence under Section 138 of Negotiable Instruments Act. After a full fledged trial, C.C.Nos.51 and 52 of 2014 were dismissed by the Trial Court on 20.08.2014 holding that the complainant had failed to prove that there is no legally enforceable debt between him and the accused. Aggrieved by the judgment of acquittal dated 20.08.2014 passed by the Trial Court, the complainant filed Criminal Appeals along with petitions for leave to file in Crl.O.P.(MD) No.21854 of 2014 in Crl.A.(MD) No.SR.No.34321 of 2014 and Crl.O.P.(MD) No.21104 of 2014 in

Crl.A.(MD) SR.No.34320 of 2014 before this Court.

3. When the Special Leave Petitions came up for admission before this Court, a learned Single Judge of this Court went through the entire records and dismissed the Special Leave Petitions on 06.01.2015 on the following findings:

6. This Court, on an independent application of mind to the impugned judgment and the materials placed before it in the form of typed-set of papers, is of the view that there is no error or infirmity in the reasons assigned by the Trial Court for dismissing the private complaints. Therefore, the petitions for leave are dismissed and consequently, Crl.A.(MD) SR.Nos.34320 and 34321 of 2014 are rejected. However, it is always open to the petitioner / appellant / complainant to work out his further remedies in accordance with law.

4. Challenging the order dated 06.01.2015, the petitioner has filed the present petitions under Sections 482 Cr.P.C. Since the Office entertained doubts about the maintainability of these petitions, the same were posted in the Open Court for deciding the issue of maintainability.

5. Heard the learned counsel for the petitioner, who strenuously contended that this Court had failed to appreciate the evidence adduced in the Trial Court, while dismissing the Special Leave Petitions and therefore, this Court should interfere under Section 482 Cr.P.C. and set aside the order.

6. In the considered opinion of this Court, this Court, while dismissing the Special Leave Petitions, has passed a detailed order on 06.01.2015. Under Section 362 Cr.P.C., this Court cannot review or alter the said final order. If the petitioner was aggrieved with the order dated 06.01.2015, his only remedy was to have approached the Supreme Court within the period of limitation. It is not open to the petitioner to seek review of the order dated 06.01.2015 in the teeth of Section 362 Cr.P.C..

In the result, the Office Note put up by the Registry with regard to the maintainability of these petitions is upheld and both the petitions in SR stage are dismissed as not maintainable.

