



L.P.A.Nos.60 & 61 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 27.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

L.P.A.Nos.60 & 61 of 2025

and

C.M.P.Nos.29987 & 29989 of 2025

L.P.A.No.60 of 2025 :

K.Rajalingam

... Petitioner

Vs.

1.SPAC Tapioca Products (I) Ltd.,
A Limited Company,
Now business at Poonachi Village,
Anthiyur Taluk,
Represented by its Executive Director
R.P.Arul Sundaram,
Carrying on business in its registered office
at D.No.102, Sheik Dawood Street,
Erode 638 001

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Represented by its Power of Attorney

M.Balasubramanian

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Human Resource Department and 3 others

... Respondents

*[Cause title accepted vide Court order dated 26.11.2025
made in C.M.P.No.29762 of 2025 in LPA SR.No.107762/25]*

L.P.A.No.61 of 2025 :

K.Rajalingam

... Petitioner

Vs.

1.SPAC Tapioca Products (I) Ltd.,
A Limited Company,
Now business at Poonachi Village,
Anthiyur Taluk,
Represented by its Executive Director
R.P.Arul Sundaram,
Carrying on business in its registered office
at D.No.102, Sheik Dawood Street,
Erode 638 001

Represented by its Power of Attorney

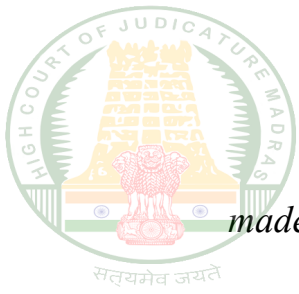
M.Balasubramanian

(Manager Raja Chidambaram)

Human Resource Department and 3 others

... Respondents

[Cause title accepted vide Court order dated 26.11.2025]



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made in C.M.P.No.29768 of 2025 in LPA SR.No.107755/25]

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For Petitioner : Mr.Sharath Chandran
in both appeals

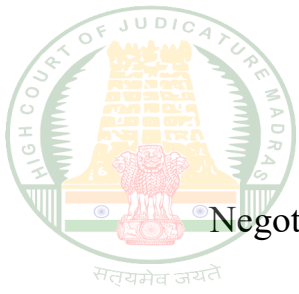
ORDER

(Order of the Court was made by **N. SATHISH KUMAR, J.**)

Challenging the directions issued by the learned Single Judge of this Court in Para Nos.7 and 8 of the order made in Crl.O.P.Nos.27089 & 27094 of 2024 in Crl.A.SR.Nos.49576 & 59577 of 2024, dated 30.06.2025, which resulted in the closure of the Criminal Appeals filed by the appellant against the judgment of acquittal of an offence under Section 138 of the Negotiable Instruments Act, the above Letters Patent Appeals have been filed.

2.Brief facts leading to the filing of these appeals are as follows :

The appellant has filed a complaint under Section 138 of the



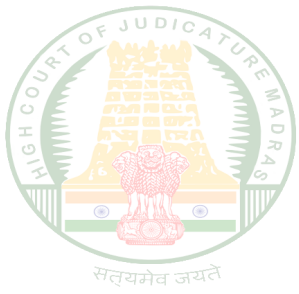
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Negotiable Instruments Act as against one Suganthalakshmi before the VIII

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Metropolitan Magistrate Court, George Town, Chennai. However, the said complaint was dismissed and the accused was acquitted. Challenging the acquittal, the appellant filed a Criminal Appeal before the Sessions Court, viz., III Additional Sessions Judge, City Civil Court, Chennai, in C.A.No.171 of 2019. The said Appeal was also dismissed by the Appellate Court. Aggrieved over the dismissal of the Appeal, the appellant presented an Appeal before this Court under Section 378(4) Cr.P.C. in Crl.A.SR.No.25112 of 2019. However, the said appeal was not numbered by the Registry in view of the decision of the earlier Full Bench of this Court in ***S.Ganapathy v. N.Senthilvel*** reported in **2016 (4) CTC 119**. It is relevant to extract the findings of the Full Bench in ***S.Ganapathy's case*** as under :

“31.Since, subsequent to the Full Bench reference, the Supreme Court in Satyapal Singh interpreted these provisions, we are duty bound to follow the same to the extent it binds us.



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With that in mind and in the light of the above legal precedents and the discussion, we answer the questions posed by the Referral Judge as follows:-

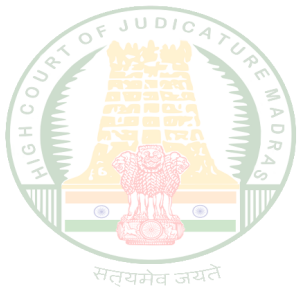
(1) A victim of the crime, who has prosecuted an accused by way of a private complaint, has a statutory right of appeal within the limits prescribed under Section 372 of Cr.P.C.

(2) A complainant (in a private complaint), who is not a victim, has a remedy and can file an appeal in the event of acquittal of the accused after obtaining leave to appeal under Section 378(4) of Cr.P.C.

(3) In a private complaint, even if the victim is not a complainant, he has a right to appeal under the proviso to Section 372 of Cr.P.C., but he has to seek leave as held by the Supreme Court in Satyapal Singh.

(4) The term “victim” has been correctly interpreted by the Full Bench of the Delhi High Court in Ramphal and we are in agreement with the same.

(5) A victim (as defined under Section 2(wa) of the Cr.P.C does not cease to be a victim merely because he also happens to be a complainant and he can avail all the rights and privileges of a



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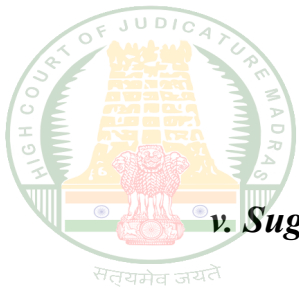
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victim also and (6) The decision of the Single Judge in Selvaraj holding that the term “victim” found in Section 372 excludes a complainant, is not legally correct and in a given case, a complainant, who is also a victim, can avail right granted under Section 372 of Cr.P.C.”

Pursuant to such directions of the earlier Full Bench, the appeals filed hitherto before this Court under Section 378(4) Cr.P.C. were transferred to the respective Sessions Courts.

3.While entertaining the appeals filed by the appellant in CrI.A.SR.Nos.25084 and 25112 of 2019, a learned Single Judge of this Court doubted the correctness of the decision of the Full Bench in ***S.Ganapathy’s case***, as the earlier Full Bench had not considered the judgment of the larger Bench of the Hon'ble Supreme Court in ***Damodar S. Prabhu v. Sayed Babalal H*** reported in ***(2010) 5 SCC 663*** and therefore, referred the appellant’s Appeal to a Full Bench. Consequently, another three Judges Bench was constituted in the appellant’s case in ***K.Rajalingam***

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v. Suganthalakshmi reported in **(2020) 4 CTC 1**.

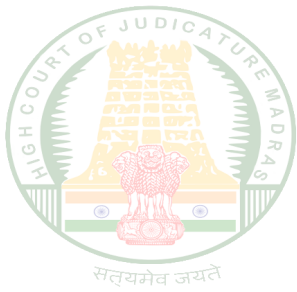
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4.The later Full Bench in **K.Rajalingam's case** considered the larger Bench judgment of the Hon'ble Supreme Court in **Damodar S.Prabhu's case**, in which, the Hon'ble Supreme Court has held as follows :

“5.Unfortunately, it was not brought to the notice of the Full Bench the decision rendered by the Apex Court in Damodar S. Prabhu V. Sayed Babalal H. ((2010) 5 Supreme Court Cases 663), which directly considered the very issue. The following paragraph would be apposite.

“20. It may be noted here that Section 143 of the Act makes an offence under Section 138 triable by a Judicial Magistrate First Class (JMFC). After trial, the progression of further legal proceedings would depend on whether there has been a conviction or an acquittal.

● *In the case of conviction, an appeal would lie to the Court of Sessions under Section 374(3)(a) of the CrPC; thereafter a Revision to the High Court under Section 397/401 of the CrPC and finally a petition before the Supreme Court, seeking special leave to appeal under 136 of the Constitution of India. Thus, in case of conviction there will be four levels of litigation.*



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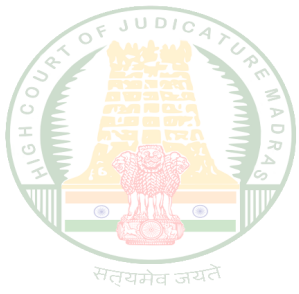


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● *In the case of acquittal by the JMFC, the complainant could appeal to the High Court under Section 378(4) of the CrPC, and thereafter for special leave to appeal to the Supreme Court under Article 136. In such an instance, therefore, there will be three levels of proceedings.*

6.It is to be remembered that the decision in Damodhar's case(supra) has been rendered by a Coram of three Honourable Judges of the Apex Court as against Satya Pal Singh's case(supra) presided by two. Therefore, even on the principle governing law of precedent, the earlier decision would hold the field. This is de hors the fact that the former dealt with a 'complaint' and the latter dealt with a victim in a police report.

7.Therefore, even on the date of hearing and delivering the judgment in S.Ganapathy's case, the decision of the Apex Court in Damodhar's case was holding the field. Perhaps, the present situation would not have arisen had it been brought to the notice of the Full Bench.”



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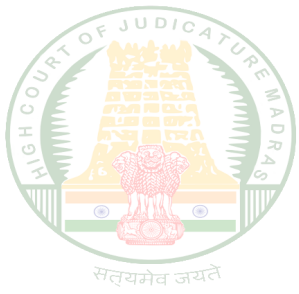
5.The later Full Bench held that the earlier Full Bench in

WEB COPY **S.Ganapathy's case** is *per incuriam* and in Para No.26.9, it has clearly held

that, in cases where the appeals filed before the Courts of Sessions are also dismissed, the complainants can file an appeal under Section 378(4) of Cr.P.C. against the order of acquittal passed by the Magistrate disregarding the orders of the Sessions Court. In fact, the later Full Bench has also held that the orders of the Sessions Court have to be ignored and appeal to be filed before this Court.

6.It is also to be noted that the judgment of the later Full Bench in appellant's case (**K.Rajalingam's case**) was also considered by the Hon'ble Supreme Court in **Vikram Mankal and others v. S.Srinivasan** reported in **2021 SCC Online SC 3491** and the Hon'ble Supreme Court held as follows :

“2.Feeing aggrieved and dissatisfied with the impugned common judgment and order dated 10.04.2019 passed by the High Court of Judicature at Madras in Criminal Revision Case



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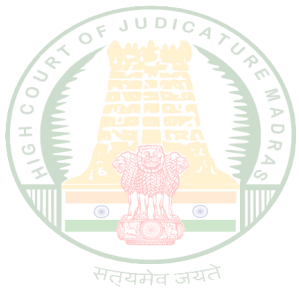


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Nos. 509, 511 and 744 of 2018 by which the High Court has dismissed the said revision applications preferred by the original accused and has confirmed the judgment and order of conviction passed by the learned Sessions Court, the original accused have preferred the present appeals.

...

5. In view of the decisions of the full Bench of the Madras High Court in the case of S. Ganapathy v. N. Senthilvel, (2016) 4 CTC 119 and more particularly the subsequent decision of the full Bench of the Madras High Court in the case of K. Rajalingam v. R. Suganthalakshmi, 2020 SCC OnLine Mad 1052, there is broad consensus between the learned counsel appearing on behalf of the respective parties that let the judgment and order passed by the learned Sessions Court be quashed and set aside and the original complainant be permitted to prefer an appeal before the High Court against the judgment and order of acquittal passed by the learned Magistrate and the High Court to consider the same in accordance with law and on its own merits."



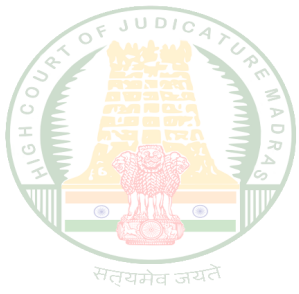
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In that case, the judgment of the Sessions Court was set aside and the Apex Court itself has granted leave and permitted the appellant therein to file an appeal before the High Court. Be that as it may.

7.Pursuant to the orders of reference, the Criminal Appeals filed by the appellant in Crl.A.Nos.89 and 90 of 2020 were kept pending before this Court. When the appeals were pending before this Court, a two Judges Bench of the Hon'ble Supreme Court in ***Celestium Financial v. A.Gnanasekaran, etc.*** reported in ***2025 SCC OnLine SC 1320***, in Para No.9, held as follows :

“9.In the circumstances, we find that Section 138 of the Act being in the nature of a penal provision by a deeming fiction against an accused who is said to have committed an offence under the said provision, if acquitted, can be proceeded against by a victim of the said offence, namely, the person who is entitled to the proceeds of a cheque which has been

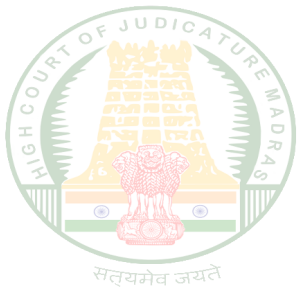


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dishonoured, in terms of the proviso to Section 372 of the CrPC, as a victim. As already noted, a victim of an offence could also be a complainant. In such a case, an appeal can be preferred either under the proviso to Section 372 or under Section 378 by such a victim. In the absence of the proviso to Section 372, a victim of an offence could not have filed an appeal as such, unless he was also a complainant, in which event he could maintain an appeal if special leave to appeal had been granted by the High Court and if no such special leave was granted then his appeal would not be maintainable at all. On the other hand, if the victim of an offence, who may or may not be the complainant, proceeds under the proviso to Section 372 of the CrPC, then in our view, such a victim need not seek special leave to appeal from the High Court. In other words, the victim of an offence would have the right to prefer an appeal, inter alia, against an order of acquittal in terms of the proviso to Section 372 without seeking any special leave to appeal from the High Court only on the grounds mentioned therein. A person who is a complainant under Section 200 of the CrPC who complains about the offence committed by a



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person who is charged as an accused under Section 138 of the Act, thus has the right to prefer an appeal as a victim under the proviso to Section 372 of the CrPC.”

The above judgment makes it clear that a choice is given to the victim either to file an appeal under Section 372 Cr.P.C. before the Sessions Court or under Section 378(4) Cr.P.C. before this Court.

8.After this judgment, a learned Single Judge of this Court in ***SPAC Tapioca Products (I) Ltd. v. Arun Casuals India Ltd. and others*** [Crl.O.P.Nos.27089 & 27094 of 2024 in Crl.A.SR.Nos.49576 & 59577 of 2024, dated 30.06.2025], has held that the order of the Hon'ble Supreme Court in ***Celestium Financial's case*** can be implemented prospectively and there will not be prejudice caused to any party in doing so and in order to draw an outer line, fixed the cut-off date as 04.07.2025 for filing any petition seeking to grant leave to file an appeal against the order of acquittal under Section 419(4) of BNSS and directed the Registrar General to circulate the



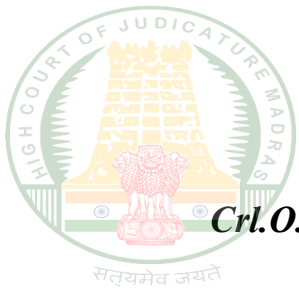
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above direction to all the Courts. The learned Single Judge has also made it

clear that the Registry can number the petitions/appeals which were already filed/returned for want of any query on or before 04.07.2025. Pursuant to the same, the Registry has issued a Circular in Notification No.172/2025 dated 04.07.2025.

9.Pursuant to the above directions of the learned Single Judge, the Registry has closed the Criminal Appeals filed by the appellant herein. Since the appellant has been left remediless, he has come forward with the present Letters Patent Appeals challenging the aforesaid directions issued by the learned Single Judge of this Court.

10.Meanwhile, another learned Single Judge of this Court in ***M.Rajendran v. Sornamani [Crl.A.SR.(MD) No.35005 of 2025 and***



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Crl.O.P.(MD) SR.No.35020 of 2025, dated 18.09.2025], in Para No.35, has

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“35.Under such circumstances, the circular issued in pursuant to the directions of this Court made in SPAC Tapioca Products (I) Ltd Vs. Arun Casuals India Ltd., and two others in Crl.O.P.No.27089 and 27094 of 2024 in Crl.A.SR.Nos.49576 and 59577 of 2024 may not be compatible with the position settled in K.Rajalingam by the full bench of this Court.

...

40.When a litigant gets two forums to exercise one right, namely the right to file an appeal, he needs to file an affidavit that he has chosen only one form to file his appeal and also that he will not file an appeal once again before the other forum, in case his appeal filed before one forum has got dismissed or leave to file appeal rejected.”

In the said case, liberty was also granted to the petitioner therein to file a review/modification before the learned Single Judge who passed the impugned directions. It is to be noted that, by the time liberty was granted to the petitioner, the cases were disposed of. Therefore, the liberty granted

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would not work out for any purpose. Be that as it may.

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11. Admittedly, even as per the learned Single Judge who issued the impugned directions in *SPAC Tapioca Products (I) Ltd. v. Arun Casuals India Ltd. [Crl.O.P.Nos.27089 & 27094 of 2024 in Crl.A.SR.Nos.49576 & 59577 of 2024, dated 30.06.2025]*, the pending appeals already filed or returned for want of any query on or before 04.07.2025 can be entertained by this Court. Such being the position, now, the Registry has closed the Criminal Appeals filed by the appellant herein, being the subject matter of reference. The later Full Bench of this Court in *K.Rajalingam's case (appellant's case)* has clearly held that, though the appellant had invoked the Sessions Court as against acquittal, since the Sessions Court did not have the jurisdiction, the judgment of the Sessions Court should be ignored and still appeal could be filed by the appellant before this Court. It is to be noted that the later Full Bench has followed the judgment of the three Judges Bench of



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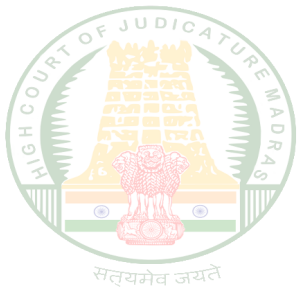
the Apex Court in ***Damodar S. Prabhu's case***. Such being the position,

when the Criminal Appeals filed by the appellant were already pending before this Court, the Registry closing the appeals, in our view, cannot be sustained in the eye of law and therefore, the same is set aside.

12. Accordingly, the Criminal Appeals filed by the appellant in Crl.A.Nos.89 and 90 of 2020 shall be restored in the light of the judgment of the later Full Bench in ***K.Rajalingam's case***, and be listed before the concerned Court as per roster for disposal in accordance with law.

13. With regard to the larger issue involved in the matter, the same will be decided after hearing all the respondents and also the members of the Bar.

14. Notice to the respondents, returnable by 06.01.2026. Private Notice is also permitted.



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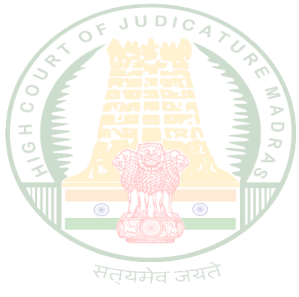
(N.S.K., J.) (M.J.R., J.)
27.11.2025

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Internet : Yes

N. SATHISH KUMAR, J.
and
M. JOTHIRAMAN, J.

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