

ITEM NO.46

COURT NO.9

SECTION II-C

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 9567/2023  
(Arising out of impugned final judgment and order dated 11-07-2023  
in CRLP No. 4688/2017 passed by the High Court of Judicature at  
Madras)

D.M.KATHIR ANAND

Petitioner(s)

VERSUS

N.S.PHANIDHARAN & ANR.

Respondent(s)

( IA No.154181/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT )

Date : 14-08-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. S. Ganesh, Sr. Adv.  
Mr. P.Wilson, Sr. Adv.  
Mrs. Mona K. Rajvanshi, AOR  
Mr. Ashwani Kumar, Adv.  
Mr. Anurag Kashyap, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Mr. S. Ganesh and Mr. P. Wilson, learned  
senior counsel make submissions on behalf of the  
petitioner (assessee). They contend that the  
petitioner on his own volition had filed his return  
for the assessment year 2013-14, albeit delayed  
return, well before the assessment order dated 24<sup>th</sup>

March, 2016 along with the payable tax. In fact the assessment order dated 24<sup>th</sup> March, 2016 (Annexure P-3) corresponds precisely to the self assessed tax and also the interest which the assessee had already remitted on late filing of the return.

Yet the department has accorded sanction for prosecution of the assessee with the observation that there is a statutory presumption against him under Section 278E of the IT Act.

It is submitted that there is no mens rea/intention to evade tax as the return and the payable tax with interest, was paid well before the assessment order and the return furnished by the assessee, was also accepted by the assessing officer.

Issue notice, returnable in four weeks.

In the meantime, further proceedings are stayed.

(SONIA BHASIN)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR