

.Crl.A.No.615 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.12.2024

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Appeal No.615 of 2016

Chinnaponnu

... Appellant

Versus

1. Alamelu

2. The Deputy Superintendent of Police,
Maduranthagam,
Kancheepuram District.

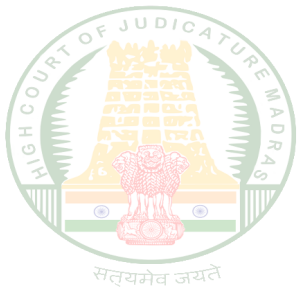
... Respondents

Criminal Appeal filed under Section 372 r/w. 378 of Cr.P.C., to call for the records in S.C.No.185/2011 on the file of the learned District and Sessions Judge, Chengalpet, setting aside the Judgment acquitting the first Respondent/Accused passed on 06 August 2015 and to convict the First Respondent/Accused for the offences she has been charged with.

For Appellant : Mr.David Sundar Singh

For Respondents : Mr.G.Mageshkumar for R-1

: Mrs.G.V.Kasthuri
Additional Public Prosecutor for R-2



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JUDGMENT

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2. The brief facts, which are relevant for disposal of this Appeal, are as follows:

2.1. On instruction by the Revenue Divisional Officer, Maduranthakam, the then Tahsildar of Maduranthakam had conducted surprise visit in the quarry in S.No.63/3 at Mohalvadi Village where it was alleged that people belongs to Irula Tribes (Scheduled Tribes) were kept as bonded labourers by using them as workers in the quarry without paying them minimum wages as per the Minimum Wages Act and restricting their movements. Accordingly, Tahsildar visited Mohalvadi Village and found that there were workers engaged in the quarry. On her enquiry, she came to know that members of three families were employed by one Alamelu for quarrying the land in S.No.63/3 which belongs to one Krishnamoorthy. The labourers belonging to three families were paid Rs.5000/-. The Tahsildar had taken one Gopal, Chinnaponnu, Palayathan, Chitra, Kutty and Ponnammal along with her who were alleged to have been employed as bonded labourers by



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Alamelu/Accused in this case. The Tahsildar had given a Complaint to the Deputy Superintendent of Police, Maduranthakam under Ex.P-1 against the said Alamelu. Based on the Complaint of Tahsildar, the Sub Inspector of Police, Achirupakkam Police Station had registered a case in FIR in Cr.No.455/2009, dated 13.09.2009 for the offences under Sections 16, 18 & 20 of the Bonded Labour System (Abolition) Act, 1976, 374 of IPC and Section 3(1) (iv) of SC/ST (Prevention of Atrocities) Act. The copy of the FIR was sent to the higher Officials of the Police Station in Kanchipuram District and the original Complaint and original FIR were sent to the Court of the learned Judicial Magistrate, Maduranthakam.

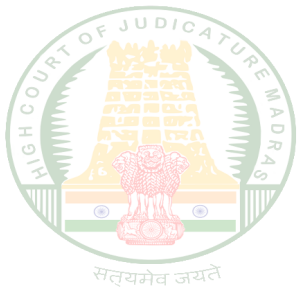
2.2. On receipt of the copy of the FIR, the Deputy Superintendent of Police, Maduranthakam had proceeded to the place where the alleged labourers were detained and exploited as labourers. She prepared the observation mahazar under Ex.P-7 and rough sketch under Ex.P-8 in the presence of witnesses. He had examined the labourers who were claimed to be appointed as bonded labourers. The above mentioned people, who were released by the Tahsildar, were examined by the Investigation Officer and recorded the statement of Tahsildar and other witnesses. On completion of investigation, he laid the final report before the learned Judicial Magistrate, Maduranthakam. The learned Judicial Magistrate had issued summons to the



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Accused. On appearance of the Accused, copies were furnished under Section 207 Cr.P.C. Since the case is triable by the Court of Sessions, the Accused was committed to the Court of Sessions and the case records were sent to the Court of the learned Principal District and Sessions Judge, Chengalpet. On receipt of the records and on appearance of the Accused, the learned Principal District and Sessions Judge, Chengalpet had taken cognizance of the offences under Bonded Labour System (Abolition) Act, 1976 and Section 374 of IPC. After hearing the Prosecution and the Defence, the learned Principal District and Sessions Judge had framed charges against the Accused for the offences under Sections 16 to 18 of the Bonded Labour System (Abolition) Act, 1976 and Section 374 of IPC and Section 3 (i) (vi) of SC/ST (Prevention of Atrocities Act). The Accused denied the charges and claimed to be tried. Therefore, the learned Principal District and Sessions Judge had ordered trial. During trial, the Prosecution had examined P.W-1 to P.W-13 and marked documents under Ex.P-1 to Ex.P-8.

2.3. The Accused had not examined any witness as defence witness. On conclusion of trial, after hearing the argument of the learned Public Prosecutor and the learned Counsel for the Defence, the learned Principal District and Sessions Judge, Kancheepuram at Chengalpet by Judgment dated 06.08.2015 in S.C.No.185/2011 had acquitted the Accused from all the charges.



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3. Aggrieved by the judgment of acquittal, the victim had filed this Appeal seeking to set aside the Judgment of acquittal and to convict the Accused.

4. The learned Counsel for the Appellant invited the attention of this Court to the Provisions of the Bonded Labour System (Abolition) Act, 1976 which is a special enactment particularly dealing with bonded labourers.

5. The learned Counsel for the Appellant invited the attention of this Court to the definition under Section 2 of the Act. Also, Sections 10 to 12, 15 and 21. Sections 2, 10 to 12, 15 and 21 of the Bonded Labour System (Abolition) Act, 1976 are extracted as under:

“2. Definitions.—In this Act, unless the context otherwise requires,— (a) “advance” means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor); (b) “agreement” means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality. Explanation.—The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely:— Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti; (c) “ascendant” or “descendant”, in relation to a person belonging to a



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matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society; (d) “bonded debt” means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system; (e) “bonded labour” means any labour or service rendered under the bonded labour system; (f) “bonded labourer” means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt; (g) “bonded labour system” means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,— (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or (ii) in pursuance of any customary or social obligation, or (iii) in pursuance of an obligation devolving on him by succession, or (iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or 3 (v) by reason of his birth in any particular caste or community, he would— (1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or (2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or (3) forfeit the right to move freely throughout the territory of India, or (4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him, and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor. 1 [Explanation.—For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is “bonded labour system” within the meaning of this clause;] (h) “family”, in relation to a person, includes the ascendant and descendant of such person; (i) “nominal wages”, in relation to any labour, means a wage which is less than,— (a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the



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time being in force, and (b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

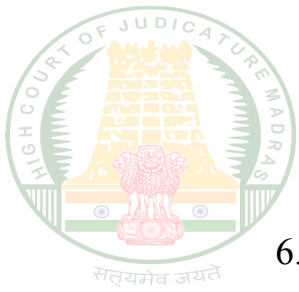
10. Authorities who may be specified for implementing the provisions of this Act.—The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

11. Duty of District Magistrate and other officers to ensure credit.—The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

12. Duty of District Magistrate and officers authorised by him.—It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

15. Burden of proof.—Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

21. Offences to be tried by Executive Magistrates.—(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be. (2) An offence under this Act may be tried summarily by a Magistrate. ”



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6. Also, the learned Counsel for the Appellant invited the attention of this Court to the Comments, which reads as follows:

COMMENTS

“Whenever it is shown that a labour is made to provide forced labour, the Court would presume that he is doing so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labourer. This presumption may be rebutted but unless and until satisfactory material is produced in rebuttal, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the provisions of the Act. The State Government cannot be permitted to repudiate its obligation to identify, release and rehabilitate the bonded labourers on the plea that they must show in an appropriate proceeding conducted or adversary system of justice that they are bonded labourers: Bandhua Mukti Morcha V. Union of India AIR 1984 SC 802.”

7. It is the submission of the learned Counsel for the Appellant that the learned Principal District and Sessions Judge, Chengalpattu, had lost sight of the parliamentary intent in the enactment of the Special Act, had approached the case as ordinary case under the IPC and failed to appreciate the discharge of burden by the Accused. Therefore, the judgment of acquittal is not as per the provisions of the Bonded Labour System (Abolition) Act, 1976.

8. The learned Counsel for the Appellant also invited the attention of this Court to the deposition of witnesses P.W-4 to P.W-9. P.W-1 is the Tahsildar, who had made surprise inspection in the premises where bonded labourers were engaged in quarry. In spite of the fact that there were sufficient materials to convict the Accused, the learned Principal District and Sessions



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Judge, Chengalpattu, had acquitted the Accused.

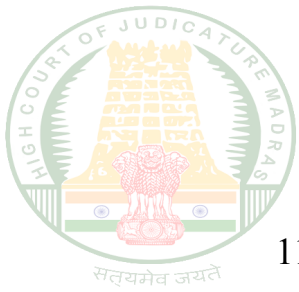
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9. The learned Additional Public Prosecutor for the second Respondent by way of reply, also supported the submission of the learned Counsel for the Appellant. She relied on the depositions of P.W-4 to P.W-9, stating that the learned Principal District and Sessions Judge, Chengalpattu, had failed to consider the materials available in the depositions of the Prosecution Witnesses.

10. The learned Additional Public Prosecutor invited the attention of this Court to the judgment of the learned Principal District and Sessions Judge, Chengalpattu, in paras 17 to 21. The discussion in those parts is against the provisions of the Bonded Labour System (Abolition) Act, 1976. Therefore, the learned Additional Public Prosecutor also seeks to set aside the judgment of acquittal and seeks to convict the Accused for the offence committed by the Accused.

Point for consideration:

Whether the Judgment of the learned Principal District and Sessions Judge, Kanchipuram at Chengalpet acquitting the Accused by Judgment dated 06.08.2005 in S.C.No.185/2011 is to be set aside as perverse in the light of the special enactment of Bonded Labour System (Abolition) Act, 1976?



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11. Heard the learned Counsel for the Appellant and the learned Additional Public Prosecutor for the State/second Respondent and the learned Counsel for the first Respondent/Accused.

12. Perused the charges framed by the learned Principal District and Sessions Judge and the deposition of Prosecution Witnesses viz., P.W-1 to P.W-13 and the Judgment of the learned Principal District and Sessions Judge, Kanchipuram at Chengalpet in S.C.No.185/2011 dated 06.08.2015. It is found that the learned Principal District and Sessions Judge had on proper appreciation of evidence acquitted the Accused from the charges on the ground that the witnesses who were alleged to have been released from the bonded labour system by P.W-1-Tahsildar, Maduranthakam. She had in her cross-examination before the trial Court admitted that the Accused/Alamelu worked along with them in the same stone quarry. Therefore, the claim that Alamelu/Accused had exploited the members of three families belong to Scheduled Tribes for meagre wages and without permitting them to move out from the stone quarry had not been proved in the cross-examination of P.W-5-Ponnammal, P.W-4-Kutty, P.W-6-Palayathan. P.W-6-Palayathan and P.W-7-Chitra had in their evidence stated that they were engaged by the Accused for stone quarrying. In the course of the cross-examination P.W-7 had admitted



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that they used to go their house in the native village which is one Kilometer away from where they were employed as labourers in the quarry. P.W-6 in his cross-examination, had admitted that the Accused also worked along with them in the same quarry. All the witnesses belonging to the same family and they were resident of Village one Kilometer away from the place where they were employed as labourers in the quarry. As per their evidence in cross-examination, they used to work from Morning to Evening. After completion of work, they were permitted to move their Village. Therefore, the claim that they were engaged as bonded labourers had not been proved before the Court. Also, in the very same Judgment, the learned Sessions Judge had accepted the defence of the Accused when the case involved SC/ST (PoA) Act, the Superintendent of Police of the District has to issue proceeding by nominating the Investigation Officer not below the rank of Deputy Superintendent of Police. Here no such proceedings were passed by the Superintendent of Police. The case was suo-motu taken by the Tahsildar, Maduranthakam. The Investigation Officer admitted in his cross-examination that there is no proceedings from the Superintendent of Police, Kanchipuram District by nominating the Investigation Officer. Apart from all of the above, P.W-1 is the Complainant/Tahsildar, who had in her surprise visit, found out that these labourers belong to three families who were related to each other who were



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working in the same quarry. She had released them under the Bonded Labour System (Abolition) Act, 1976. In the cross-examination, she claimed the ignorance of the fact that as an Executive Magistrate, she has enough power to initiate steps to release the bonded labourers and also to conduct surprise inspection wherever she has suspicion about the persons employed as bonded labourers. She had clearly stated that she had not paid any amount to the persons whom she claimed to have been released from the stone quarry which she had visited on 06.10.2009. Also, she had admitted that she had not recorded the statement of witnesses, when she made surprise visit as Executive Magistrate having the power to conduct enquiry. The labourers engaged by the Accused were from Mohalvadi Village where they were employed as labourers and their place of the original village were hardly two kilometers away. Therefore, the contention that they were engaged as labourers restricting their movements was not found proved by the learned Principal District and Sessions Judge. The witnesses viz., P.W-4, P.W-5 and P.W-7, in their cross-examination stated that they were illiterates and their wages were received by their husbands from the owner of the quarry and those details were not known to them.

13. When there is evidence from the Prosecution Witnesses that the



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Accused also used to work along with them in the same quarry, then the

Accused cannot be found guilty to the charge of Bonded Labour System (Abolition) Act, 1976. Even though it prima-facie appears to be bonded labour system, it is not so as proved in the cross-examination of the Witnesses. They were permitted to go to their Village and come back daily. They were employed from Morning to Evening. The Witness/P.W-1 is the Complainant/Tahsildar, who is the Executive Magistrate, had to conduct independent enquiry and file a report, she had not done so. She had given a Complaint as though P.W-1 found the bonded labourers in the stone quarry and she had taken them to Taluk Office and released them stating that they were employed in stone quarry. In the cross-examination, Tahsildar claims that she was not aware of powers of Executive Magistrate as per the Bonded Labour System (Abolition) Act, 1976 she had not recorded the statement of Witnesses whom she had employed. She had only given a Complaint. On perusal of the FIR, it is found that the Complaint was received by post. Based on which, FIR was registered. Only persons belong to Scheduled Tribes were employed in quarry, it cannot be treated as bonded labourers. On instructions from the Revenue Divisional Officer that there is an allegation of Bonded Labour System prevailing in Maduranthakam, the Tahsildar, Maduranthakam had made surprise visit. On perusal of the cross-examination of P.W-1, the then



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Tahsildar, it is found that she was not aware of her responsibilities as Tahsildar as Executive Magistrate having the power to enquire and record statement of Witnesses. On perusal of the evidence, it was found that she has not released any funds for the welfare of the bonded labourers whom she had released. It is for the Collector of the District to release the funds for the welfare of the bonded labourers. The Witnesses in this case are - P.W-1-Tahsildar as Executive Magistrate, P.W-2 and P.W-3 are Mahazar Witnesses. The Mahazar Witnesses had not supported the case of the Prosecution. They had only signed the witnesses to the Mahazar and their evidence does not support the fact that labourers were employed as bonded labourers. P.W-4-Kutty, P.W-6-Palayathan and P.W-8-Gopal are the alleged bonded labourers, P.W-5-Ponnammal, she is the wife of P.W-4. P.W-7-Chitra w/o. Palayathan/P.W-6 and P.W-9-Chinnaponnu w/o. Gopal/P.W-8 are also the alleged bonded labourers. P.W-10 is the Deputy Director of Adidravidar Tribal Welfare. He had issued caste certificate to the alleged bonded labourers. P.W-5 to P.W-8 stating that they belong to Irular Community. P.W-11-Karunanithi, who had issued community certificate to the Accused/Alamelu. She belongs to Ottar Community under Ex.P-5. P.W-12 is Selvazhagan, Inspector of Police, Achirupakkam Police Station, who had registered the case in FIR in Cr.No.425/2019 for the offences under Section 374 of IPC and Sections 16, 18



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and 20 of the Bonded Labour System (Abolition) Act, 1976 and Section 3(i)

(vi) of SC/ST (Prevention of Atrocities) Act. P.W-13-Deputy Superintendent of Police, Maduranthakam who conducted investigation and filed a final report. In the cross-examination of P.W-13 had stated that the land in S.No.63/3 belongs to Krishnamoorthy Reddiyar who was not examined and his statement was not recorded. The Accused belongs to Ottar Community. Whether the Ottar Community is part of Scheduled Tribe, is not clear. The Accused belongs to Kavaniyathur Village, Vandavasi Taluk, Thiruvannamalai District. The Witnesses alleged bonded labourers viz., P.W-4 to P.W-9 belongs to Kottayapakkam Village. They were alleged to have been released from the Village in Mohalvadi. Kottayappakkam and Mohalvadi are adjacent Villages, within 2 Km as per the evidence of P.W-1/Tahsildar. In the cross-examination of P.W-13, Deputy Superintendent of Police, Maduranthakam as Investigation Officer has stated that in the statement recorded from P.W-4 to P.W-9, they have stated that they were given advance of Rs.5,000/- by Alamelu and per unit, they were paid Rs.300/-. For crushing stones Rs.300/- per unit. He had clearly stated that he had not examined any of the villagers either in the place of residence of the Prosecution Witnesses P.W-4 to P.W-9 (alleged bonded labourers) or in the place where they were found to be working in Mohalvadi Village. Also, he had admitted that he had not received copy of the release



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order by releasing the bonded labour and allowing them financial grants to support them. Also, Investigation Officer had admitted that he had not recorded the statement of Revenue Divisional Officer regarding bonded labour released from the quarry in Mohalvadi Village and extending the financial benefits to them and no release order was marked during the evidence of P.W-13. Therefore, the Complainant who is empowered under the Bonded Labour System (Abolition) Act, 1976 was not aware of her power to enquire and power to record the statement of witnesses.

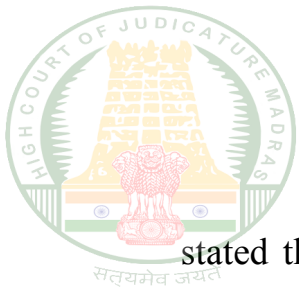
14. From the evidence of P.W-1, it is found that she had carried out the instructions of the Revenue Divisional Officer, Maduranthakam and nothing more. The Investigation Officer/P.W-13 is the then Deputy Superintendent of Police, Maduranthakam had recorded the statement of Witnesses viz., Tahsildar/Complainant/P.W-1 and P.W-2 and P.W-3 are the Mahazar Witnesses. P.W-10-Revenue Divisional Officer, Headquarters of Thiruvannamalai. P.W-11-Zonal Deputy Tahsildar, Vandavasi, P.W-12-Official Witness/Inspector of Police, Achirupakkam. P.W-4 to P.W-9 are bonded labourers. P.W-1-Tahsildar, Maduranthakam had just carried out the earlier instructions of the then Revenue Divisional Officer, Maduranthakam, she had not acted as an Executive Magistrate with powers to enquire and file a report.



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She claims to have directly filed Complaint to the Inspector of Police,

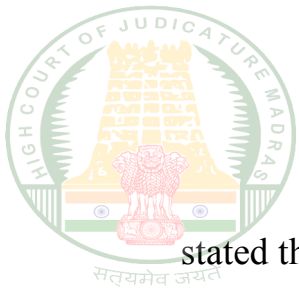
Achiruppakkam whereas the Inspector of Police/P.W-10 claims that Complaint was received by Post based on which he had registered case in Cr.No.455/2009. When the witnesses had themselves admitted that the Accused also worked with them in the quarry and the Investigation Officer in his cross-examination admitted that the Accused had engaged P.W-4 to P.W-9 as labourers in the quarry. The quarry belongs to Krishnamoorthy, the said Krishnamoorthy was not examined as witness. The Revenue Divisional Officer had given instructions to the Tahsildar was not also examined as witness. P.W-1 had not taken the Village Administrative Officer of the Village concerned with her. She claims that the Village Administrative Officer and the Revenue Inspector had accompanied her and no statement was recorded by her. She has to conduct enquiry and as an Executive Magistrate, she has to summon the Police Officials throughout her period of surprise visit. When the witnesses P.W-4 to P.W-9, alleged bonded labourers had stated that they had received Rs.500/- as advance and Rs.300/- was paid for the work per unit is conceded by the Investigation Officer in his cross-examination. Therefore, P.W-4 to P.W-9 cannot be held to be bonded labourers as per the Complaint under Ex.P-1. The Appeal filed by the victim who is cited as P.W-9, she had in her cross-examination before the learned Principal District and Sessions Judge



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stated that she was born and brought up in Kottayappakkam which is in the adjoining District of Thiruvannamalai. When the Accused had invited them on their own-volition accompanied her on a single day each one of them used to crush 10 to 15 baskets of blue metals and for such crushing they were paid according to the units of metal broken by them in quarry. She had clearly admitted that she can come from her Village daily. It is adjoining the place where the quarry was carried out. The land in which the quarry was belonging to Panchayat President of the Village, Mohalvadi. P.W-9 had clearly admitted that the Accused/Alamelu was also engaged in stone crushing in quarry and they were employed in morning and evening and they were cooked food in the very same place where they were employed. When they were not engaged in quarry, they were engaged in agriculture and wood cutting etc., She had clearly admitted that her husband only used to receive wages and it was recorded.

15. On perusal of the witnesses viz., P.W-4 to P.W-9, it is found that all the witnesses are relatives. When the Deputy Superintendent of Police as Investigation Officer had recorded their statements under Section 161 of Cr.P.C., each one of them was paid wages Rs.300/- per unit. The learned Counsel for the defence had suggested those facts to the Investigation Officer in the cross-examination and he had fairly conceded that the witnesses had

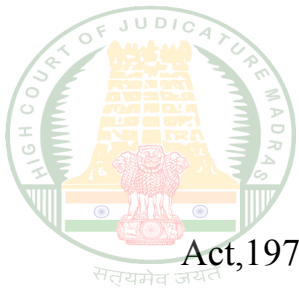


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stated that they have received Rs.300/- per unit.

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16. Using the illiterate status and ignorance of the witnesses viz., P.W-4 to P.W-9, the case was cooked up as similarly placed that the Accused who does not Scheduled Tribes, who also belongs to Backward Class i.e., Ottar. It is observed that Ottar community of people engaged in stone quarry/belong to Backward Class, they are also illiterates and there is no discrimination between them. While so, the case had been foisted by some vested interests and some ulterior motive. That is why, the Complaint was sent to the Police Station concerned through post by the Tahsildar. The Revenue Divisional Officer had only instructed the Tahsildar to inspect and act accordingly. Whereas, the Tahsildar had on visit of the land in S.No.63/3 in Mohalvadi Village found that it belongs to the Panchayat President and the Tahsildar had not functioned as a responsible Executive Magistrate. In the light of the Bonded Labour System (Abolition) Act, she has to examine the witnesses and record their statements and based on which, she could have registered a complaint and imposed penalty and punishment, as per the Act. The learned Sessions Judge could have convicted the Accused. There is no written complaint from any of the social workers or law abiding citizens from the same Village to invoke the Provisions of Bonded Labour System (Abolition)



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Act, 1976. The Accused and P.W-4 to P.W-9 are similarly placed individuals.

While so, specified the same individuals or group of evidence, the Revenue Divisional Officer had given report that the Tahsildar had acted accordingly. The procedures in the Bonded Labour System (Abolition) Act and SC/ST (Prevention of Atrocities) Act were not followed in this case. Therefore, the learned Sessions Judge had on proper appreciation of evidence had rightly acquitted the Accused.

17. The learned Counsel for the Appellant relied on the provisions of The Mines Act, 1952 regarding the definitions under Section 2 where “owner” deals. Also the learned Counsel for the Appellant relied on the ruling of this Court reported in *MANU/TN/1734/2017 [M.Kandasamy Mudaliar and others -vs- The State]* in which the learned Judge of this Court had relied on the ruling of the Hon'ble Supreme Court reported in *MANU/UP/0062/2012 : 2012 (91) AIR 59 [Sageer and others -vs- State of U.P.]* The facts in the reported case and the facts in this case are similar. But there is vast difference. The Accused in this case is a co-worker and also an agent. She had approached P.W-4 to P.W-9 who happened to be belonging to the same family as three couples – husband and wife hailing from neighbouring District of Tiruvannamalai. The Accused is from neighbouring village in Chengalpattu



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District. Both the Accused and P.W-4 to P.W-9 are working in the quarry.

When the Tahsildar P.W-1 visited the quarry, no statement had been recorded by P.W-1 Tahsildar, Maduranthagam. This case involves provisions of Bonded Labour Abolition Act and provisions of SC/ST (PoA) Act. Therefore, P.W-4 to P.W-9, who are members of schedule tribes – Irulas, illiterates working on daily wages. The Accused even though not belonging to Irula Tribes belongs to Backward Class (Ottars). There is evidence from this very same Appellant Chinnaponnu – P.W-9 where she had clearly deposed that the Accused was also engaged in quarry as daily wager along with them. She used to go to her village. She restricted P.W-4 to P.W-9 from going to their village at their whims and fancies. From morning 8 a.m. to 4 p.m. they had to work and in the place of work alone, they had to prepare their food. There is a clear evidence that all the P.W-4 to P.W-9 had been going to their village by walking which is one or two kilometres where they found by P.W-1. Only if there is restriction of their movement not allowing them, they can be treated as bonded labour, they can go freely along with them. There is no evidence regarding payment of monetary benefits to support their independent life any grant or subsistence granted in the light of the Bonded Labour Abolition Act by the authorities under the Act, the District Collector. P.W-1 even though an Executive Magistrate had not acted as per law. That shows she was not clear that P.W-4



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to P.W-9 were bonded labourers. Only for the purpose of statics they had made out a case only on oral instructions from the Revenue Divisional Officer concerned. The very same act attracts the provisions of SC/ST (PoA) Act under Section 3(i)(vi). If P.W-1 had acted properly she could have filed the report to the District Collector based on which proceedings could have been initiated by the Superintendent of Police nominating the Deputy Superintendent of Police to investigate and report. Here everything was lopsided. That shows they were aware that P.W-4 to P.W-9 were not bonded labourers. They were working as daily wagers. Accused is also a daily wager working along with them. Therefore, there is no involvement of any social worker having filed any complaint in writing to the authorities as per the reported ruling in **MANU/UP/0062/2012 : 2012 (91) AIR 59 [Sageer and others -vs- State of U.P.]** where the Hon'ble Supreme Court had observed as follows:

“10.The 'bonded labour system' as defined in Section 2(g) of the Bonded Labour (System) Abolition Act, 1976, shows that it is usually as a result of advances given by way of bonded debt that a debtor or his dependents or heirs are compelled to provide forced or partly forced labour to the creditor for a specified or unspecified period for no wage or for nominal wages, to forfeit their right to freely sell their labour in the market, change their employer or to move about freely in India. Therefore, if any advance was given (as may have been done in this case), it may have actually been a bonded debt.”

22. With regard to the *locus standi* of the de facto complainant for giving the complaint is concerned, the learned counsel referred the order in the case of *Neeraja Chaudhary v. State of M.P.*, reported in



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MANU/SC/0060/1984 : AIR 1984 SC 1099 NGO, wherein, the Hon'ble Supreme Court has held as follows:

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"It is difficult to believe that the existence of bonded labour can be discovered and the evil of bonded labour can be wiped out by relying solely on action to be taken by the members of the Legislative Assembly or the bureaucracy or even the 3 panchayats though their help must certainly be sought & taken. The Commissioners and Collectors have multifarious duties to attend and even if they are anxious to help in eradication of the vice of bonded labour system, investigation but they would have to rely on their subordinate officers such as tehsildars and patwaris and at many places, the patwaris and tehsildars being either in sympathy with the exploiting class or lacking in social commitment or indifferent to the misery and suffering of the poor and the downtrodden, the task of identification, release and rehabilitation of bonded labour through the official machinery would be very difficult of achievement. So also the members of the Legislative Assembly, though extremely sincere and well meaning and having the welfare of the poor at heart, would, barring perhaps in a few cases, hardly have time to carry out any inquiry or investigation for the purpose of identification and release of bonded labourers. The panchayats also, dominated as they some times are by vested interests, and having regard to their mode of functioning, may not be very effective in this task. What is really necessary is to involve social action groups operating at the grass root level in the task of identification and release of bonded labourers.

"It is only through social action groups working amongst the poor that we shall be able to discover the existence of bonded labour and we shall be able to identify and release them. There are fortunately in our country a large number of such dedicated social action groups-young men and women inspired by idealism and moved by a passionate and burning zeal to help their fellow beings - whose services can be utilised for identification, release and rehabilitation of bonded labourers. We would strongly urge upon the State Government to include the representatives of such social action groups in the vigilance committees and to give them full support and cooperation. These social action groups may appear to be unorthodox and unconventional and their actions may be marked by a sense of militancy, but they alone will be able to deliver the goods and it is high time that the State Government should start taking their assistance instead of looking at them askance and destructing them. The vested interests would undoubtedly be against such social action groups which are trying to organise the poor

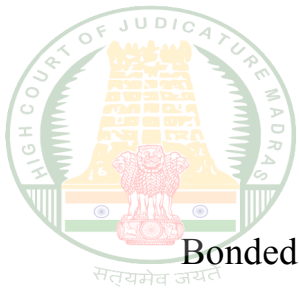


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and the oppressed and would try to attack and destroy such social action groups with all the resources at their disposal including filing of false cases or influenced by the vested interests and under the guise of maintenance of law and order, harass and oppress the disadvantaged sections of the community whom such social action groups are trying to organise with a view to making them strong and self-reliant and capable of fighting for their rights through the process of law.”

18. The fact of this case does not attract the observation made by the Hon'ble Supreme Court. It is simple case of daily wagers. Accused being portrayed as Accused under the Bonded Labour System (Abolition) Act, 1976. It is a fact that traditionally people belonging to MBC Ottars are employed in quarries as their traditional work. Here the Accused also worked along with P.W-4 to P.W-9. For some ulterior motive, some vested interest had initiated complaint (oral complaint to Revenue Divisional Officer, Madurantagam). The Revenue Divisional Officer, Madurantagam as Executive Magistrate has to conduct enquiry and make local inspection. He had not done so. He had instructed the Tahsildar P.W-1 to make a surprise inspection and find out the truth. P.W-1 as Tahsildar, Madurantagam made surprise inspection in Mohalvadi Village within Madurantagam Taluk had visited the land in S.No.63/3 belonging to one Krishnamoorthy. The said Krishnamoorthy had engaged P.W-4 to P.W-9 through Alamelu/Accused herein. The said Krishnamoorthy is stated to be the Panchayat President of Mohalvadi Village. He is not arrayed as Accused. Whereas the daily wager Alamelu who also worked along with P.W-4 to P.W-9 had been portrayed as Accused under



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Bonded Labour (System) Abolition Act, 1976 which cannot at all be accepted.

P.W-9 Appellant herein had clearly in his evidence stated that they went on their own volition when Accused offered them the job of quarrying in Mohalvadi Village. On appreciation of evidence, the learned Principal Sessions Judge, Kancheepuram at Chengalpattu had rightly acquitted the Accused. This Court sitting in Appeal, on appreciation of evidence, cannot disturb the findings recorded by the learned Principal District and Sessions Judge, Kancheepuram at Chengalpattu.

19. P.W-4 to P.W-9 are Labourers. P.W-4 Kutty. P.W-5 Ponnammal is the wife of P.W-4 Kutty. P.W-6 is Palayathan. P.W-7 is Chitra wife of P.W-7. P.W-8 is Gopal. P.W-9 is Chinnaponnu, wife of Gopal. All are illiterates. The woman in this group P.W-5, P.W-7, P.W-9 were not aware of the daily wages. Whereas P.W-4, P.W-6 and P.W-8 the men had bargained with the Accused for the wages and had been receiving wages on behalf of their wives P.W-5, P.W-7 and P.W-9. Therefore, the claim by the Appellant Counsel that Rs.500/- was given as advance and they were not paid and they were not allowed to move out gives a presumption to the Court that they were restricted under the Bonded Labour system. It gives a presumption, the Court cannot act on such presumption when there is evidence from P.W-4 to P.W-9 that they used to

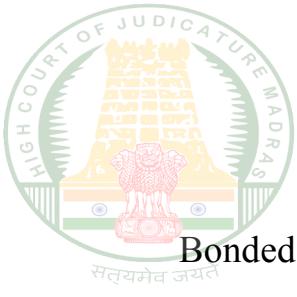


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leave after work in the evening and used to return in the morning. Therefore, there is no restriction. The observation of the Hon'ble Supreme Court cited in para 22 in the reported ruling which was quoted by the learned Judge of this Court is not applicable to the facts of this case too.

20. If the argument of the learned Counsel for the Appellant is invoked in the very unorganised sector of our economy where semi-literates and illiterates are employed as daily wage earners misusing this sort of laws in the statute book will be exploited by a section of the society to wreck vengeance on those who employ them under the garb of SC/ST (PoA) Act or under the garb of Bonded Labour (System) Abolition Act, 1976 in which case members of the downdrodden community may lose getting job due to fear caused by some vested interest claiming themselves as social workers. The Appeal lacks merit in the light of the above said circumstances.

21. In the light of the above discussion, the point for consideration is answered in favour of the first Respondent and against the Appellant. The judgment of the learned Principal District and Sessions Judge, Kanchipuram at Chengalpattu acquitting the Accused by Judgment dated 06.08.2005 in S.C.No.185/2011 is found proper in the light of the special enactment of



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Bonded Labour System (Abolition) Act, 1976.

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In the result, this **Appeal is dismissed.** The judgment dated 06.08.2005 passed in S.C.No.185/2011 by the learned Principal District and Sessions Judge, Kanchipuram at Chengalpet, acquitting the Accused is confirmed.

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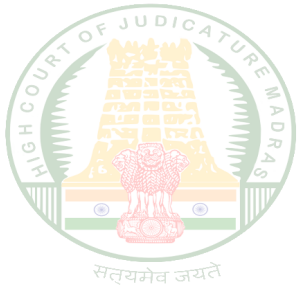
Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

To

1. The District and Sessions Judge,
Kancheepuram at
Chengalpet.
2. The Deputy Superintendent of Police,
Maduranthagam,
Kancheepuram District.
3. The Public Prosecutor,
High Court, Madras.
4. The Section Officer,
Criminal Section,
High Court Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

dh/srm

Judgment made in
Crl.A.No.615 of 2016

21.12.2024