

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.44 OF 1996

SHRI H.C.JANGIPURIA)...APPELLANT

V/s.

SHRI P. MADHAVAN AND ORS.)...RESPONDENTS

Smt.Rebecca Gonsalves, Advocate for the Appellant.

Shri Deepak Thakre, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 14th SEPTEMBER 2015.

ORAL JUDGMENT :

1 Totally seventeen persons were arraigned as accused in Criminal Case No.25 of 1992, filed before the Chief Judicial Magistrate, Ratnagiri, on the allegation that they had committed offences punishable under Sections 135(I)(a)(i) and 135(I)(b)(i) of the Customs Act read with Section 34 of the Indian Penal Code

(IPC). However, two of them could not be tried at all as they absconded. One was discharged by the learned Magistrate. Four were acquitted by him after holding a trial. Respondent nos.1 to 10 herein were convicted by him. When the said respondents, however, appealed to the court of Sessions, the court of Sessions allowed their appeals and acquitted them. Being aggrieved by their acquittal, the original complainant i.e. the Assistant Collector of Customs, has filed the present appeal against the order of acquittal, after obtaining special leave of this court.

2 I have heard Smt.Rebecca Gonsalves, the learned counsel for the Appellant. I have been taken through the facts of the case and the impugned judgment.

3 In paragraph 18 of the impugned judgment, the learned Judge has elaborately dealt with the prosecution case and the evidence adduced. He has given his reasoning for coming to the conclusion that the respondents were entitled to be acquitted, which is summed up in the said paragraph.

4 The learned counsel for the appellant is unable to show any factual error in the judgment, - in gathering the facts or in reading the evidence; or in the reasoning adopted by the learned Additional Sessions Judge. As a matter of fact, it appears that a case was tried to be built only on the basis of the statements of the accused persons recorded under Section 108 of the Customs Act, and apart from the degree of reliance that could be placed on such statements, the statements were also not really incriminating, i.e. - could not be accepted as proof of the guilt of the respondents.

5 The view taken by the learned Additional Sessions Judge does not seem to be suffering from any error or illegality. The appreciation of evidence, as done by the learned Additional Sessions Judge, is not shown to be wrong or improper.

6 In any case of the matter, the view taken by the learned Additional Sessions Judge is certainly a possible view. It

is well settled that in such cases, this court will not interfere with the order of acquittal.

7 The appeal is dismissed.

(ABHAY M. THIPSAY, J.)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment /Order.**