

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1059 of 2008

Thottappa Chellammal

.. Petitioner

Versus

1. The State: rep.by
Inspector of Police
Vazhavanthinadu Police Station
Senthamangalam Taluk
Namakkal Taluk and District.

2. Dhanapal
3. Ramkumar
4. Samy @ Senthil
5. Sellathurai
6. Ravi @ Ravichandran

.. Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the order of acquittal dated 25.04.2008 passed by the learned Principal and District Sessions Judge, Namakkal in S.C.No.10 of 2008.

For Petitioner : No appearance

For Respondents : Mr.V.Arul
Government Advocate (Crl.side)
for R1
Mr.K.V.Sridharan
for RR2 to 6

ORDER

This revision has been filed in the year 2008 and neither the revision petitioner nor her counsel is appearing before this Court for the past seven years, even though several opportunities have been given to her. Hence, the matter was directed to be listed today under the caption "for dismissal". Even today, there is no representation for the petitioner. Hence, the Criminal Revision Case is taken up for disposal on merits as per the judgment of the Hon'ble Supreme Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka] after hearing the learned Public Prosecutor appearing for the State and the learned counsel appearing for the accused persons.

2. The petitioner, who is the defacto complainant in S.C. No.10 of 2008 has come forward with this Criminal Revision Case aggrieved by the order of acquittal dated 25.04.2008 passed by the Court below.

3. The brief facts of the defacto complainant is as follows:

The first accused borrowed a sum of Rs.50,000/- from the petitioner's husband and when he requested him to repay the same, he got angry. Hence on 05.09.2006, the accused along with four other persons with a common intention to murder the husband of the petitioner had abducted him in a jeep and strangled with his lungi. Since the petitioner's husband did not return home, the petitioner gave a complaint before the first respondent police based on which the case in Crime No.46 of 2006 for the alleged offences punishable under Sections 364, 302, 201 r/w 34 of IPC came to be registered. After investigation, the first respondent filed final report which was taken on file in S.C.No.10 of 2008. The trial court, after analysing the oral and documentary evidence, acquitted all the accused, against which the present Criminal Revision Case is filed.

4. The only ground raised by the petitioner in this revision is that the court below erred in coming to the conclusion that the prosecution has failed to prove the case beyond reasonable doubt. Further she would contend that when a body has been recovered from a particular place based on the confession statements given by the accused themselves, the Court below ought not to have acquitted all the accused. Accordingly, she would pray for setting aside the same.

5. Learned Government Advocate (Criminal side) would submit that the prosecution case mainly rests on the substantial evidence and the prosecution proved the last seen theory. However, he would submit that the Court below pointing out certain discrepancies in the conduct of the investigation by the Investigating Officer, acquitted the accused.

6. Learned counsel appearing for the accused/respondents 2 to 6 would submit that the court below after taking into consideration the entire oral and documentary evidence adduced, acquitted all the accused by holding that there was no cogent, reliable evidence adduced on the side of the prosecution for convicting the accused. based on the charges framed. He would also submit that though PW1 in her evidence would state that the motive for the accused persons to commit murder is that A1 owed money to the deceased, there was no whisper about the same in the complaint lodged. Accordingly, he would pray for the dismissal of the criminal revision case.

7. Heard the learned Government Advocate (Crl.side) and the learned counsel appearing for the accused persons and there is no representation on behalf of the petitioner.

8. On a perusal of the order passed by the Court below, it is seen that the alleged occurrence is said to have taken place way back in the year 2006 and after a decade the case cannot be once again re-opened for investigation as the incident has taken place in Kolli hills. Further, the Court below also has clearly pointed out that the prosecution failed to establish the dead body in question through clinching evidence. It has further held that the prosecution case mainly lies on the circumstantial evidence. However, in this case, the prosecution has not proved the guilt of the accused. Further, the Investigating Officer has not even sought for an identification

parade to identify the accused persons. There are also other various other discrepancies in the prosecution case. In view of the above, the Court below acquitted all the accused by holding that the prosecution has not proved the case beyond reasonable doubt. Hence, I do not find any reason to interfere with the order of acquittal passed by the Court below at this distant point of time.

9. In the result, this criminal revision case is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Principal and District Sessions Judge,
Namakkal.
 2. The Inspector of Police
Vazhavanthinadu Police Station
Senthamangalam Taluk
Namakkal Taluk and District.
 3. The Public Prosecutor, Madras
- + 1 cc to Mr. K.V.Sridharan, Advocate Sr.45657

Cr1 RC No.1059 of 2008

EV(CO)
EU 25.09.15

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