

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2015

C O R A M

THE HONOURABLE MR.JUSTICE S. NAGAMUTHU

Criminal Revision Case No.569 of 2015

Moorthy

... Petitioner/PW1

Vs.

1. State rep. by the Inspector of Police,
Vikkraavandi Police Station
(Crime No.227 of 2013)

2. Jagan @ Manimaran

... 1st Respondent/Complainant
2nd Respondent/Sole Accused

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. against the judgment of acquittal of the second respondent dated 16.02.2015 passed in S.C.No.555 of 2013 by the learned Sessions Judge, Magalir Needhi Mandram (Fast Track Mahila Court), Villupuram and to set aside the order of acquittal.

For petitioner : Mr.B.Selvaganapathy

For 1st respondent : Mr.V.Arul,
Government Advocate (Crl. Side)

O R D E R

The petitioner is the de facto complainant in S.C.No.555 of 2013 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram. The 2nd respondent herein was the accused in the said case. The trial court, by judgment dated 10.02.2015, has acquitted the 2nd respondent. Challenging the same, the petitioner is before this Court with this revision.

2. This Revision has come up today for admission. I have heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) for the 1st respondent.

3. At the outset, this Court raised a query as to how this revision is maintainable, when the petitioner has got right of appeal under the proviso to Section 372 of Cr.P.C., the learned Counsel for the petitioner is not able to convince the Court as to how this revision is maintainable.

4. As per Sub-Section 4 of Section 401 of Cr.P.C., where under the Code, an appeal lies and no appeal is brought, no proceeding, by way of revision, shall be entertained at the instance of the party who could have appealed.

5. In this case, therefore, the question is as to whether the petitioner has got right of appeal. In this regard, I may refer to the proviso to Section 372 of the Cr.P.C. Until the said proviso was inserted by the Code of Criminal Procedure Amendment Act, 2008 w.e.f. 31.12.2009, the victim had no right of appeal. In those circumstances, the revision was entertained by this Court.

6. Now in order to recognise the rights of the victims and keep them almost on par with the accused, the Parliament has inserted the proviso to Section 372 of Cr.P.C., thereby giving right of appeal as against acquittal to a victim. The term 'victim' has also been defined in Section 2 (wa) of the Code which states that 'victim' means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes his or her guardian or legal heir.

7. In this case, undoubtedly, the petitioner, being the father of the deceased is a victim. Thus, he has got right of appeal. Therefore, in view of Sub-Section 4 of Section 401 of Cr.P.C., this revision is not at all maintainable. Hence, this revision is dismissed as not maintainable, however, with liberty to the petitioner to file an appropriate appeal. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
सत्यमेव जयते
Assistant Registrar(CS II)

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Sub Assistant Registrar

To

1.The Sessions Judge,
Magalir Needhi Mandram,
(Fast Track Mahila Court),
Villupuram.

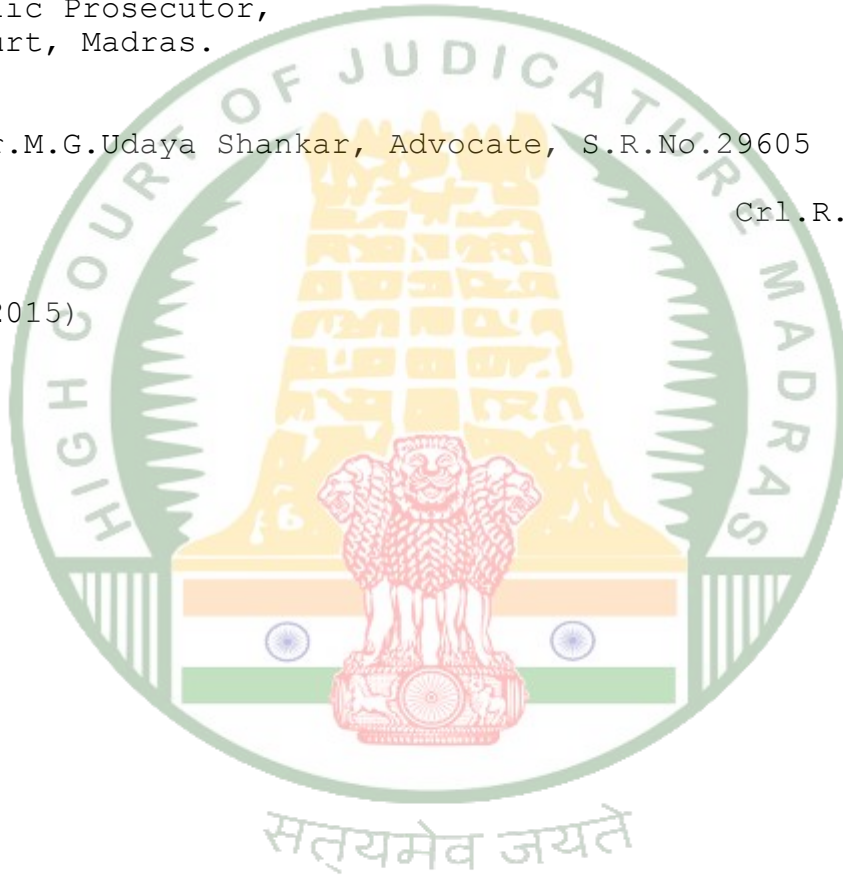
2.The Inspector of Police,
Vikkravandi Police Station
Vikkravandi.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.G.Udaya Shankar, Advocate, S.R.No.29605

CrI.R.C.No.569 of 2015

TM(CO)
CA(29/06/2015)



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