

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05-11-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Appeal No.305 of 2006

Smt. Amirtham

Appellant

Vs.

1. K. Rajendiran
2. Chandra
3. K. Selvaraj
4. Arunachalam @ Kandasamy
5. P. Velusamy
6. Chinthamani
7. Chinna Ammani
8. Vijayal
9. Maruthambal
10. Baby

Respondents

Criminal Appeal against the order of acquittal dated 18-01-2006 passed in C.C.No.220 of 2000 by the Judicial Magistrate, No.VI, Coimbatore.

For appellant :: Mr. C.S. Dhanasekaran

For respondent :: Mr. C. Veeraraghavan for RR1,3 to 8
No appearance for R2, R9 & R10

JUDGMENT

The order of acquittal dated 18-01-2006 passed in C.C.No.220 of 2000 by the Judicial Magistrate, No.VI, Coimbatore is being challenged in the present criminal appeal.

2. The appellant herein as complainant has filed the complaint, in question on the file of the Court-below and the same has been taken on file in C.C.No.220 of 2000 wherein the present respondents have been shown as accused.

3. It is averred in the complaint that the complainant is the legally wedded wife of the first accused by name Rajendiran. During subsistence of their marriage, the first accused has married the second accused, by name Chandra. The remaining accused have lent their support for performing second marriage of the first accused. Under the said

circumstances, the accused have committed offences mentioned in the complaint.

4. On the side of the complainant, P.Ws.1 to 4 have been examined and Exs-P1 to P4 have been marked. The Court-below after considering the available evidence on record has found all the accused not guilty under Section 494 read with 109, IPC and ultimately, acquitted them. Against the order of acquittal, the present criminal appeal has been filed.

5. The learned counsel appearing for the appellant has contended that the appellant/complainant is the legally wedded wife of the first accused and during subsistence of their marriage, the first accused has married the second accused. The remaining accused have lent their support for conducting second marriage. Under the said circumstances, all the accused have committed offences punishable under Sections 494 read with 109, IPC and for the purpose of establishing the factum of second marriage, P.Ws.1 to 4 have been examined on the side of the complainant. But the Court-below has disbelieved their evidence. Under the said circumstances, the order of acquittal passed by the Court-below is liable to be set aside.

6. As pointed out earlier on the side of the complainant, Ex-P1 to P4 have been marked. Except Exs-P1 to P4, no document has been filed on the side of the complainant for the purpose of proving that she is the legally wedded wife of the first accused. For the purpose of proving the alleged factum of second marriage, P.Ws.1 to 4 have been examined. The Court-below has given a specific finding to the effect that P.Ws.1 to 4 have not given consistent evidence with regard to factum of second marriage alleged to have been performed on 07-09-1993. Therefore, it is quite clear that even an iota of evidence is not available on the side of the complainant for proving the alleged second marriage. Since as stated supra, the complainant herself has not established the fact that she is the legally wedded wife of the first accused and since no clinching evidence has been forthcoming for the purpose of proving the alleged second marriage, it is needless to say that the accused cannot be mulcted with liability under Sections 494 read with 109, IPC. The Court-below after considering the vital infirmities found on the side of the complainant has rightly acquitted all the accused.

7. In view of the discussion made earlier, this Court does not find any error or illegality in the order passed by the Court-below and altogether, this criminal appeal deserves to be dismissed.

In fine, this criminal appeal is dismissed. The order of acquittal dated 18-01-2006 passed in C.C.No.220 of 2000 by the Judicial Magistrate, No.VI, Coimbatore is confirmed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

glp

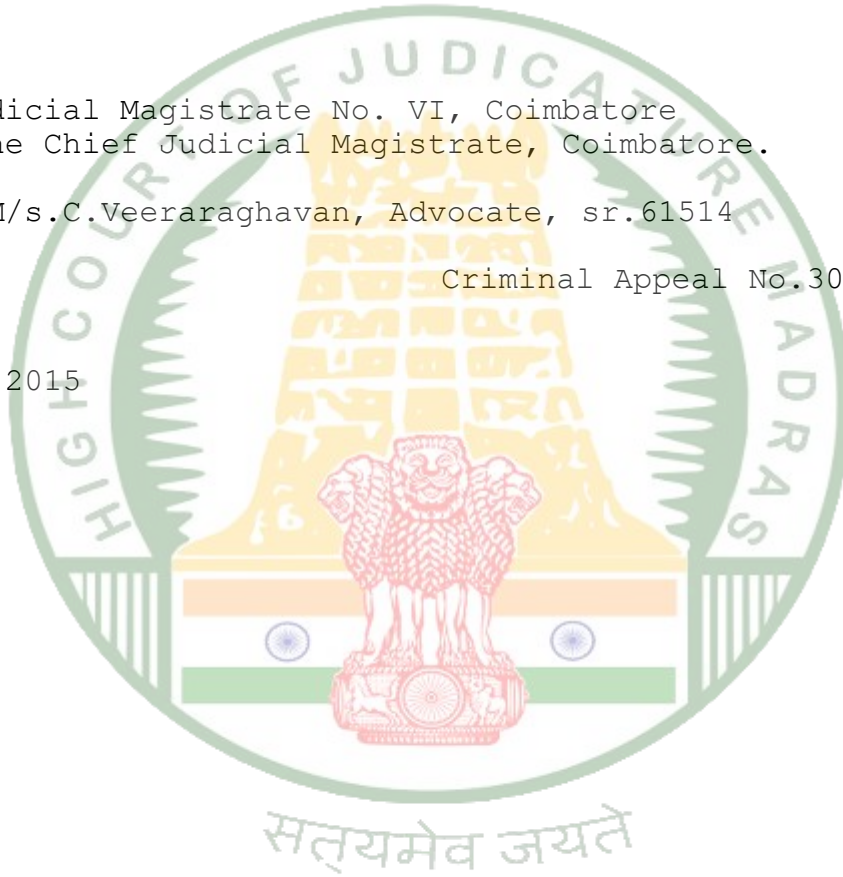
To

1. The Judicial Magistrate No. VI, Coimbatore
2. Thro'The Chief Judicial Magistrate, Coimbatore.

+1 cc to M/s.C.Veeraraghavan, Advocate, sr.61514

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