

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08-09-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Appeal No.1031 of 2004

Jansirani

... Appellant

Vs.

1. Kannu Gounder

2. Rukmani

3. Dhanapal

4. Sampath @ Samannan

5. Deepa

6. Pappy

... Respondents

Criminal Appeal under Section 378 of CrI.P.C., against the judgment of acquittal under Section 3(1)(x) of SC & ST (P.A.) Act, 324, 148, 324 r/w 149, 323 r/w 149, 323, 506(ii), IPC passed in Special Case No.2 of 2002 dated 18-12-2003 by the Principal Sessions Judge, Vellore, Vellore Division.

For appellant :: Mr. M.G.L. Sankaran

For respondent :: Mr. E. Kannadasan

JUDGMENT

The criminal appeal has been directed against the judgment of acquittal passed in Special Case No.2 of 2002 by the Principal District and Sessions Court, Vellore.

2. The case of the prosecution is that on 10-12-2001, while the complainant was ploughing her land by engaging employees at about 10:00 a.m., all the accused have trespassed into the land of the complainant and also attacked her by using her caste and after occurrence, she has given a private complaint which has been marked as Ex-P1 and taken on file as P.R.C.No.14 of 2002 by the Judicial Magistrate No.II, Tirupattur .

3. The Judicial Magistrate No.II, Tirupattur after knowing the facts that the offence alleged to have been committed by the accused is triable by Sessions Court has committed the case to the Principal Sessions Judge, Vellore and the same has been taken on file in Special Case No.2 of 2002 and after hearing both sides, necessary charges have been framed against the accused and the same have been read over and explained to them. The accused have denied the charges and claimed to be tried.

4. On the side of the complainant, P.Ws.1 to 6 have been examined and Exs-P1 to P13 have been marked.

5. When the accused have been questioned under Section 313, Cr.P.C., 1973, as respects the incriminating materials available in evidence against them, they denied their complicity in the crime. On the side of the accused, Ex-D1 has been marked.

7. The Trial Court after assessing the evidence available on record has come to the conclusion that the accused have not committed the offences mentioned in the charges and ultimately acquitted them by way of passing the impugned judgment and the same has been being challenged in the present criminal appeal.

8. The learned counsel appearing for the appellant has contended that on the side of the complainant replete evidence have been let in, for the purpose of proving the charges framed against all the accused. But the Trial Court without assessing the same properly has erroneously acquitted all the accused and therefore, the order of acquittal passed in favour of the accused is liable to be set aside and all the accused are liable to be punished in accordance with law.

9. The learned counsel appearing for the accused has also equally contended that prior to filing of Ex-P1 complainant, a Police complaint has been given and the concerned Investigating Officer has done investigation and ultimately filed a final report on the file of the Judicial Magistrate No.I, Tirupattur and the same has been taken on file in C.C.No.60 of 2012 and in the complaint given by the complainant earlier certain materials have not been mentioned and subsequently, after lapse of some time, the complaint, in question has been given and the Trial Court after considering the aforesaid aspect has rightly acquitted all the accused and therefore, the order of acquittal passed by the Trial Court need not be set aside.

10. It is an admitted fact that on the basis of the Police complaint, investigation has been done and a final report has been filed on the file of the Judicial Magistrate No.I, Tirupattur and the same has been taken on file in C.C.No.60 of 2002. In the complaint pertaining to C.C.No.60 of 2002, no mention has been made with regard to offence alleged to have been committed by all the accused under SC and ST Act. But, in the present complaint such things have been mentioned. Further, it is seen from the records that with regard to landed property, a civil suit is pending in between the complainant and accused. Therefore, it is quite clear that on the side of the complainant, trustworthy evidence has not been let in, for the purpose of proving the alleged occurrence. The Trial Court after considering the lapses on the part of the complainant and also after considering that in the Police complaint, the offences alleged to have been committed under SC and ST Act have not been mentioned, has rightly acquitted all the accused.

11. In view of the foregoing elucidation of factual aspects, this Court has not found any error or illegality in the order of

acquittal passed by the Trial Court and ultimately, this criminal appeal deserves to be dismissed.

In fine, this criminal appeal is dismissed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

glp

To

1.The Judicial Magistrate No.1, Tirupattur.

2.-do- Thro The CJM, Vellore.

3.The Principal Sessions Judge, Vellore, Vellore Division.

1 cc to Mr.E.Kannadasan , Advocate Sr.No.48808

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