

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27-10-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Appeal No.980 of 2004

State Rep. by
The Deputy Superintendent of Police
Vigilance & Anti Corruption
Udagamandalam Appellant/Complainant

Vs.

S .Yamuna Bai Respondent/Accused

Criminal Appeal under Section 378 Cr.P.C., against the judgment dated 29-01-2004 in Special C.C.No.2 of 2002 on the file of the Special Judge cum Chief Judicial Magistrate, Udagamandalam praying to set aside the order of acquittal and convict the accused.

For appellant :: Mr. P.Govindarajan, APP

For respondent :: Mr. A. Ramesh, Sr.Counsel
for Mr. S.Renganathan

JUDGMENT

This criminal appeal has been directed against the order of acquittal dated 29-01-2014 passed in Spl.C.C.No.2 of 2002 by the Chief Judicial Magistrate Court, Nilgiris.

2. The case of the prosecution is that during the relevant period, the accused has served as District Rehabilitation Officer in Nilgiris District. The defacto complainant by name, Shivakumar has made arrangements to obtain loan to the tune of Rs.10 lakhs (Rupees Ten lakhs only). The accused has initially demanded 2% and subsequently demanded a sum of Rs.2000/- (Rupees Two thousand only). On 10-06-1999, the accused has received the sum from the defacto complainant. The complaint given by the defacto complainant has been marked as Ex-P2 and the same has been registered in Crime No.2 of 1999 and subsequently, the

Investigating Officer has made arrangements to trap the accused in the presence of official witnesses viz., Sevannan and Premalatha and after conducting trap and also after completing investigation laid a final report on the side of the Trial Court.

3. The Trial Court after hearing arguments on both sides and upon perusing the relevant records, has framed first charge against the accused under Section 7 of the Prevention of Corruption Act, 1988 and second charge against her under Section 13(2) read with 13(1)(d) of the said Act and the same have been read over and explained to her. The accused has denied the charges and claimed to be tried. On the side of the prosecution, P.Ws.1 and 11 have been examined and Exs-P1 to P22 and M.Os.1 to 7 have been marked.

4. When the accused has been questioned under Section 313, Cr.P.C., as respects the incriminating materials available in evidence against her, she denied her complicity in the crime.

5. The Trial Court after hearing arguments of both sides and upon perusing the relevant evidence has found that the prosecution has failed to establish the offences mentioned in the charges and ultimately acquitted her. Against the order of acquittal, the present criminal appeal has been preferred at the instance of the complainant as appellant.

6. The learned Public Prosecutor has contended that in the instant case, the complaint given by the defacto complainant has been marked as Ex-P2 and he has been examined as P.W.2 and initially, she supported the case of the prosecution and subsequently, she has become hostile witness and the Trial Court without considering the averments made in Ex-P2, and also the evidence given by official witnesses has erroneously disbelieved the version of the prosecution and therefore, the order of acquittal passed by the Trial Court is liable to be set aside.

7. The learned counsel appearing for the respondent/accused has contended that in the instant case, the prosecution has not at all proved the alleged demand of bribe by the accused from the defacto complainant as well as receipt of the same and the Trial Court after considering the lack of evidence on the side of prosecution has rightly acquitted the accused and therefore, the order of the Trial Court does not call for interference.

8. The specific case put forth on the side of the prosecution is that on 10-06-1999, the accused has received a sum of Rs.2000/- from the defacto complainant. As stated earlier, the defacto complainant has been examined as P.W.2. During the course of cross-examination, he specifically adduced evidence to the effect that he simply placed a sum of Rs.2000/- on the table of the accused. Further, the official witness (P.W.4) also has not supported the case of the prosecution. Therefore, it is clear that both the demand as well as acceptance of bribe have not at all been established on the side of the prosecution. Since both the aspects have not at all been established on the side of the prosecution, it is highly impossible on the part of Court to come to a conclusion that the accused has committed the offences mentioned in the charges. The Trial Court after considering the lack of evidence on the side of the prosecution so as to establish the offence committed by the respondent has rightly acquitted her.

9. In view of the discussion made earlier, this Court does not find any error or illegality in the judgment passed by the Trial Court and the criminal appeal deserves to be dismissed.

In fine, the order of acquittal passed by the Trial Court in Spl.C.C.No.2 of 2002 dated 29-01-2014 is confirmed.

Sd/-
Assistant Registrar (CO)
True Copy
Sub Assistant Registrar

To

- सत्यमेव जयते
1. The Deputy Superintendent of Police
Vigilance & Anti Corruption
Udagamandalam
 2. The Special Judge cum Chief Judicial Magistrate,
Udagamandalam

Copy to:

The Section Officer,
Criminal Section,
High Court, Madras-104

+1cc to The Public Prosecutor, High Court Chennai, Sr.59063

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srg 5/11/2015



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