



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
CRL.A.(MD)No.175 of 2014

1.K.Dhavamani
2.M.Gunasekaran
3.K.Shamugaraj
4.Latha
5.Poonkodi
6.Mareeswari
7.Parameshwari

: Appellant / Petitioner / Petitioner

[Appellants 2 to 7 are impleaded as per the order of this Court dated 20.01.2015 made in M.P.[MD].No.1 of 2015 in Crl.A[MD].No.175 of 2014].

Vs.

The State,
Represented by the Inspector of Police,
Chernthamaram Police Station,
Crime No.101 of 1989.

: Respondent/Respondent / Complainant

PRAYER: Petition is filed under Section 454 of the Code of Criminal Procedure, against the order passed in Cr.M.P.No.317 of 2012 on the file of the First Additional Sessions Judge, Tirunelveli, by his order dated 11.12.2012.

For Appellants : Mr.V.Muthuvelan

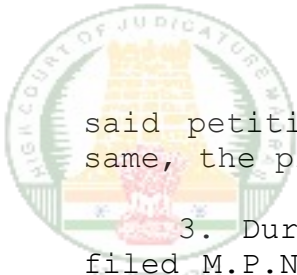
For Respondent : Mr.P.Kandasamy

Government Advocate [Criminal Side]

JUDGMENT

By consent, the Criminal Appeal is taken up for final disposal at the stage of admission itself.

2. The first appellant herein has originally filed Cr.M.P.No.317 of 2012 under Section 452 of the Code of Criminal Procedure for return of the jewels, numbering five. According to the appellant, she is the *de facto* complainant in S.C.No.38 of 1992 on the file of the Mahila Court/First Additional Sessions Judge, Tirunelveli. The husband of the appellant was cited as a witness in the said case and he deposed about the facts of the case. He died on 01.09.1996. The said case ended in conviction and thereafter, the first appellant filed Cr.M.P.No.317 of 2012 seeking return of the jewels and submitted legal heir certificate issued by the Village Administrative Officer, Thayipatti, countersigned by the Revenue Inspector, Salwarpatti, to show that the first appellant is one of the legal heirs of the deceased - S.Kumarasamy. In the said legal heir certificate, it has been mentioned that it has been issued only for the purpose of claiming provident fund, LIC, Gratuity and for appointment on compassionate ground and it shall not be produced before the Court of law. The Trial Court has taken note of the contents of the said legal heir certificate and found that it cannot be used for the purpose of receiving articles from the Court and therefore, rejected the



said petition vide impugned order dated 11.12.2012. Aggrieved over the same, the present Criminal Appeal has been filed.

3. During the pendency of the Criminal Appeal, the first appellant filed M.P.No.1 of 2015 to implead the legal heirs and it was ordered on 20.01.2015. As per the said order, the cause-title of this Criminal Appeal has also been amended.

4. It is the submission of the learned counsel appearing for the appellants that since all appellants are the legal heirs of the deceased - S.Kumarasamy, there cannot be any impediment in directing the Trial Court to return the jewels.

5. Mr.P.Kandasamy, learned Government Advocate [Criminal Side], has no serious objection in ordering this Criminal Appeal.

6. Inasmuch as the legal heirs had joined with the first appellant and they are also prosecuting this Criminal Appeal, the reasons assigned by the Trial Court cannot be sustained.

7. In the result, the Criminal Appeal is allowed and the order dated 11.12.2012 made in Cr.M.P.No.317 of 2012 is set aside and the jewels, as claimed by the appellants in Cr.M.P.No.317 of 2012, shall be returned to the appellants herein in accordance with law.

Sd/-

Assistant Registrar(Writs)

/ True Copy/

Sub Assistant Registrar

To

- 1.The I Additional Sessions Judge, Tirunelveli.
- 2.The Principal District and Sessions Judge, Tirunelveli.
- 3.The Inspector of Police,
Chernthamaram Police Station.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.V.Muthuvelan, Advocate, Sr.No.2780/15

JUDGMENT MADE IN
CRL.A.(MD)No.175 of 2014
DATED - 22.01.2015

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Sma/18/2/15/6c/2p