

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.160 of 2011

Geetha

.. Petitioner/P.W.1

Vs.

State by Inspector of Police
All Women Police Station,
Coimbatore District.
Cr.No.13 of 2005

2.Rajan
3.Nachammal
4.Vellingiri
5.Arumugam
6.Ramathal

... Respondents/Accused 1to2 and 4to6

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to enhance the sentence of the respondents 2 and 3 and setting aside the order of acquittal acquitting the respondents 4 to 6 dated 27.10.2010 made in CC.No.841 of 2005 on the file of the Judicial Magistrate No.VI, Coimbatore.

For Petitioner : Mr.V.Sairam.

For Respondent : Mr.V.Arul, GA (Crl. Side) of R1.
Mr.R.Nalliyappan for R2 to R6
No appearance.

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate No.VI, Coimbatore made in CC.No.841 of 2005 dated 27.10.2010, to enhance the sentence for R2 and R3 and to set aside the order of acquittal against R4 to R6.

2. In this case, the learned counsel for the petitioner states that the complaint was given by the revision petitioner before the Inspector of Police, All Women Police Station, Pothanur, the same was taken up on file as CC.No.841 of 2005 and after full trial, the learned Judicial Magistrate No.VI, Coimbatore passed an order dated 27.10.2010 convicting the accused 1 and 2 under Section 498A till rising of the Court and

ordered to pay a fine of Rs.1,000/- in default to undergo 15days simple imprisonment and acquitted the accused 4 to 6 from the charges under Section 498A IPC and acquitted the accused 1 and 2 under Section 506(i) IPC. Hence, the petitioner filed the present revision for enhancement of sentence awarded to accused 1 and 2/respondents 2 and 3 and to set aside the order of acquittal against the accused 4 to 6/respondents 4 to 6.

3.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) representing the first respondent. There is no representation on behalf of the respondents 2 to 6.

4.In the above said circumstances, it is useful to extract Sections 372 and 374 Cr.PC which read as follows :-

"372. No appeal to lie unless otherwise provided -
No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]

Amendment Act, 2008 - Clause 29 amends Section 372 of the Code relating to appeals from judgment or order of a Criminal Court it gives to the victim the right to prefer an appeal against any adverse order passed by the trial Court (Notes on Clauses).

374. Appeals from convictions -

(1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed against him or against any other person convicted at the same trial; may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person,-

(a) convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class or of the second class, or

(b) sentenced under section 325, or
(c) in respect of whom an order has been made
or a sentence has been passed under section 360 by any
Magistrate, may appeal to the Court of Session."

5. In view of the above said provisions, the person convicted before the trial court/Judicial Magistrate has right to file appeal before the Sessions Judge and also in the case of acquittal, the appeal shall lie before the appellate Court to which the appeal ordinarily lie, the appeal has to be necessarily preferred before the concerned Sessions Court.

6. Aggrieved over the said order passed by the learned Judicial Magistrate No.VI, Coimbatore, the present revision is preferred by the revision petitioner for enhancement of sentence awarded to accused 1 and 2/respondents 2 and 3 and to set aside the order of acquittal against the accused 4 to 6/respondents 4 to 6. The revision petitioner has every right to prefer an appeal before the Sessions Judge of the concerned District. If the petitioner is aggrieved over the order of the learned Judicial Magistrate No.VI, Coimbatore, she has to prefer an appeal before the concerned Court and without following the above said procedure, the petitioner, straightaway, filed the revision petition before this Court which is not at all maintainable and the revision is liable to be dismissed.

7. In the result, the criminal revision petition stands dismissed, with liberty to the petitioner to approach the competent court in accordance with law.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.VI, Coimbatore.

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SR(CO)

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