

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.264 of 2015

Vijayakumar

.. Petitioner/P.W.1

Vs.

1. Kesavan

2. Sekar

3. Lakshmi

4. Bhuvaneswari

5. State represented by,
Sub-Inspector of Police,
Royapuram Police Station N-1,
Chennai - 600 013.

(Crime No.483 of 2011). .. Respondents/Complainant

Prayer :- Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., against the judgment dated 09.10.2014 made in C.C.No.1976 of 2011 on the file of the learned 16th Metropolitan Magistrate, George Town, Chennai-1, acquitting the respondents 1 to 4 herein.

For Petitioner : Mr.N.Sankaravadivel

For RR-1 to 4 : Mr.S.Anil Sandeep

For R-5 : Mr.M.Mohammed Riyaz,
Government Advocate (Crl.Side)

सत्यमेव जयते
ORDER

This criminal revision case is directed against the order dated 09.10.2014 passed by the learned 16th Metropolitan Magistrate, George Town, Chennai-1, in C.C.No.1976 of 2011.

2. Heard the learned counsel appearing for the petitioner and learned counsel appearing for respondents 1 to 4 as well as learned Government Advocate (Crl.Side) appearing for the fifth respondent.

3. The revision petitioner is P.W.1 and on the basis of the complaint given by him, a case was registered by the Sub-Inspector of Police, Royapuram Police Station N-1, Chennai - 600

013, against the respondents 1 to 4 herein in Crime No.483 of 2011 for the offences punishable under Sections 448, 323 and 506 (i) r/w. 34 IPC and trial was conducted by the learned 16th Metropolitan Magistrate, George Town, Chennai-1, in C.C.No.1976 of 2011 and after full trial, all the accused were acquitted by the learned Magistrate from the charges under Sections 448, 323 and 506(i) r/w. 34 IPC. As against the said order of acquittal, the present criminal revision case is preferred by the de facto complainant/P.W.1.

4. In this case, it is useful to refer Sections 372 and 374 of Cr.P.C. 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 revision petitioner has every right to prefer an appeal before the Sessions Court. If the petitioner is aggrieved by the order passed by the learned 16th Metropolitan Magistrate, George Town, Chennai, he has to prefer an appeal before the Sessions Court and without following the said procedure, the petitioner, straightaway, filed the present criminal revision case before this Court which is not at all maintainable and hence, the criminal revision case is liable to be dismissed.

6. In the result, this Criminal Revision Case is dismissed, with liberty to the petitioner to prefer an appeal before the competent Court, according to law.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. 16th Metropolitan Magistrate,
George Town, Chennai-1.

2. The Sub-Inspector of Police,
Royapuram Police Station N-1,
Chennai - 600 013.

3. The Public Prosecutor,
High Court, Madras.

+ 2 cc to Mr.N.Sankaravadivel, Advocate SR 43342

+ 1 cc to Mr.S.Anil Sandeep, Advocate SR 43350

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prk3/8

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