

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.A.Nos.267 to 272 of 2008

The Executive Officer,
Odugathur Town Panchayat,
Odugathur, Vellore District. .. Appellant in all the appeals

Vs.

Raj Prohit	.. Respondent in Crl.A.No.267 of 2008/ Accused
Jayakumar	.. Respondent in Crl.A.No.268 of 2008/ Accused
Ashokan	.. Respondent in Crl.A.No.269 of 2008/ Accused
Poosarnam	.. Respondent in Crl.A.No.270 of 2008/ Accused
Rajendiran	.. Respondent in Crl.A.No.271 of 2008/ Accused
T.C.Chandira Babu	.. Respondent in Crl.A.No.272 of 2008/ Accused

Criminal Appeal No.267 of 2008 filed under Section 378 of Cr.P.C. against the judgment dated 27.12.2007 in S.T.C.No.1764 of 1999 on the file of the Judicial Magistrate Court - III, Vellore.

Criminal Appeal No.268 of 2008 filed under Section 378 of Cr.P.C. against the judgment dated 27.12.2007 in S.T.C.No.1765 of 1999 on the file of the Judicial Magistrate Court - III, Vellore.

Criminal Appeal No.269 of 2008 filed under Section 378 of Cr.P.C. against the judgment dated 27.12.2007 in S.T.C.No.1766 of 1999 on the file of the Judicial Magistrate Court - III, Vellore.

Criminal Appeal No.270 of 2008 filed under Section 378 of Cr.P.C. against the judgment dated 27.12.2007 in S.T.C.No.1767 of 1999 on the file of the Judicial Magistrate Court - III, Vellore.

Criminal Appeal No.271 of 2008 filed under Section 378 of Cr.P.C. against the judgment dated 27.12.2007 in S.T.C.No.1770 of 1999 on the file of the Judicial Magistrate Court - III, Vellore.

Criminal Appeal No.272 of 2008 filed under Section 378 of Cr.P.C. against the judgment dated 27.12.2007 in S.T.C.No.1771 of 1999 on the file of the Judicial Magistrate Court - III, Vellore.

For appellant : Mr.G.Jeremiah in all the appeals
For respondents : No appearance in Crl.A.Nos.267,
268 and 269 of 2008
Mr.E.Kannadasan in Crl.A.No.270 of 2008
Mr.R.Sivakumar in Crl.A.No.271 of 2008
Mr.E.Kannadasan in Crl.A.No.272 of 2008

COMMON JUDGMENT

These appeals have been filed challenging the judgments of acquittal, acquitting the respondents/accused of the offences under Sections 85, 86, 95, 102, 108 and 367 of the Tamil Nadu Municipal Act.

2. The appellant is the complainant. The complainant has filed complaints as against the respondents herein stating that the respondents/accused were Pawn Brokers by profession in the limits of Odugathur Town Panchayat. Since they are carrying on Pawn Broker profession, they have to pay the professional tax. The respondents have failed to pay the professional tax inspite of demand made. Hence, it is the case of the complainant that the respondents/accused are liable to be punished for the above said offences.

3. The said complaints were taken on file. Since there was prima-facie case against the respondents/accused, summons were issued along with a copy of the complaints as envisaged under Section 204 Cr.P.C. The respondents/accused appeared in person before the trial Court.

4. During the course of trial, on the side of the complainant, the Executive Officer of the Odugathur Town Panchayat was examined as P.W.1 and copy of G.O.Ms.No.75, dated 31.03.1995 and copy of Odugathur Town Panchayat Notice, dated 22.04.1999 were marked. On the side of the respondents/accused, no oral or documentary evidence was adduced.

5. On the basis of the evidence available on record, the trial Court acquitted the respondents/accused by finding that P.W.1 in his evidence has stated that the accused are Pawn Brokers and demand notices have been issued on them, calling upon them to pay the professional tax. Through P.W.1, Ex.P-2

demand notices were also marked. But the trial Court has come to the conclusion that the demand notices Ex.P-2 alone are not enough to hold that the respondents/accused are Pawn Brokers; the appellant/complainant has not produced any document to prove that the respondents/accused are Pawn Brokers and therefore, there was a doubt as to whether the respondents/accused are Pawn Brokers. The trial Court therefore came to the conclusion that the appellant/complainant has miserably failed to prove that the respondents/accused are Pawn Brokers. Thus, giving the benefit of doubt, the trial Court acquitted the respondents/accused. Aggrieved by the same, the complainant has preferred these appeals.

6. Heard the learned counsel for the appellant and the learned counsel for the respondents in CrI.A.Nos.270 to 272 of 2008. Though notice has been served on the respondents in CrI.A.Nos.267 to 279 of 2008, there is no appearance for them either in person or through counsel.

7. The trial Court, on an analysis of the evidence, came to the conclusion that the case of the complainant was not properly established and thereby, acquitted the respondents/accused. I do not find any infirmity in the findings rendered by the trial Court in acquitting the respondents/accused.

8. Moreover, in the decision of the Supreme Court reported in 2003 (12) SCC 606 (Ramanand Yadav Vs. Prabhu Nath Jha), the Apex Court has dealt with various decisions on the subject and held that though there is no embargo on the appellate Court reviewing the evidence upon which an order of acquittal is based, generally, the order of acquittal shall not be interfered with, because the presumption of innocence of the accused is further strengthened by acquittal and further that the judgment of acquittal can be interfered with only when there are compelling and substantial reasons for doing so. The Apex Court further held that the golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted and the paramount consideration of the Court is to ensure that miscarriage of justice is prevented.

9. Further, almost nine years have lapsed from the date of the judgment of the Court below. Therefore, at this distant point of time, this Court is not inclined to interfere with the

judgments of acquittal rendered by the trial Court. The appeals are accordingly dismissed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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1. The Judicial Magistrate-III, Vellore.

Cr1.A.Nos.267 to 272 of 2008

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