

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 04.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.275 of 2006

State:rep.by  
The Inspector of Police,  
'Q' Branch C.I.D.Salem,  
Salem District ... Appellant  
(Crime No.1/2001)

vs.

T.S.Mani @ Kolathur Mani ... Respondent

Criminal Appeal filed under Section 378 of Cr.P.C., against the judgment dated 6.12.2005 made in C.C.No.45 of 2004, on the file of the Judicial Magistrate No.I, Mettur Dam, Salem.

For appellant : Mr.P.Govindarajan,  
Additional Public Prosecutor

For Respondent : Mr.R.Thirumoorthy

JUDGMENT

The order of acquittal dated 6.12.2005, passed in Calendar Case No.45 of 2004, by the Judicial Magistrate No.I, Mettur, is being challenged in the present criminal appeal.

2. The case of the prosecution is that against Sandalwood brigand Veerappan and his associates, a case has been registered in Crime No.90 of 2000, in Thalavadi Police Station, under Sections 306, 307, 506(ii) IPC r/w.5(1)(a) and (b) of Indian Arms Act. Likewise, against them, another case has been registered in Crime No.438 of 1998, under Sections 397, 427, 332, 307 of the Indian Penal Code r/w.25(1)(a) of Indian Arms Act. The accused, knowing fully well that the said Veerappan and his associates have involved in unlawful activities and also committed so many crimes, has used to lend his assistance by way of giving shelter, food etc to them. Under the said circumstances, the accused is said to have committed an offence punishable under Section 212 of the Indian Penal Code. Considering the fact that the accused has involved in such a practice, the concerned Sub-Inspector of Police, Viz., Mr.Balakrishnan, as defacto complainant, has given a complaint and the same has been registered in Crime No.1 of 2001.

3. On receipt of the complaint, the investigating officer, viz., P.W.12, has taken up investigation, examined connected witnesses, collected materials and after completing investigation, laid a final report on the file of the trial Court and the same has been taken on file in Calendar Case No.45 of 2004.

4. The trial Court, after hearing arguments of both sides and upon perusing the relevant records, has framed a charge against the accused under Section 212 of the Indian Penal Code and the same has been read over and explained to him. The accused has denied the charge and claimed to be tried.

5. On the side of the prosecution, P.Ws.1 to 12 have been examined and Exs.P1 and P2 have been marked.

6. When the accused has been questioned under Section 313 of the Code of Criminal Procedure, 1973, as respects the incriminating materials available in evidence against him, he denied his complicity in the crime. No oral and documentary evidence has been adduced on the side of the accused.

7. The trial Court, after hearing arguments of both sides and upon perusing the available evidence on record, has acquitted the accused and against the order of acquittal, the present criminal appeal has been preferred, at the instance of the complainant, as appellant.

8. The learned Additional Public Prosecutor has contended that the accused has had close association with Sandalwood brigand Veerappan and his associates and in fact, he lent his support to them in the form of providing shelter, supplying foods, medicine etc., and further, the accused himself has given an interview to daily newspapers and the same has also been published. Only on the basis of his own interview, a case has been registered against him and subsequently, investigated and consequently, filed a final report and for the purpose of proving his close contact with the said Veerappan and others, on the side of the accused, replete evidence is available and the trial Court, without considering the evidence adduced on the side of the prosecution, has erroneously acquitted the accused and therefore, the order of acquittal passed by the trial Court is liable to be set aside and the accused is liable to be mulcted with liability under Section 212 of the Indian Penal Code.

9. The learned counsel appearing for the respondent/accused has also equally contended that in the instant case absolutely there is no evidence for the purpose of proving the alleged fact that the accused has provided shelter to Sandalwood brigand Veerappan and his associates and further, no paper publication has been marked on the side of the prosecution and the trial Court, after considering lack of evidence on the side of the

prosecution, has rightly acquitted the accused and therefore, the order of acquittal passed by the trial Court does not call for interference.

10. The specific case of the prosecution is that the accused has had close contact with Sandalwood brigade viz., Veerappan and his associates and in pursuance of his close contact, he used to provide shelter to them and also supplied food, medicine, clothes etc. The further case of the prosecution is that the accused himself has given an interview in daily newspapers and the same has also been published to the effect that he is having close contact with the said Veerappan.

11. As rightly pointed out on the side of the respondent/accused, no paper publications have been exhibited on the side of the prosecution. Further, in fact, this Court has perused the entire charge framed against the respondent/accused, wherein, it has been clearly stated that he has provided shelter to Veerappan and his associates and also provided food, clothes, medicine etc. But even in the charge, the place of such occurrences has not been mentioned. Even though on the side of the side of the prosecution, PWS.1 to 12 have been examined, no one has stated in their evidence that in a particular place, the accused has provided shelter to the said Veerappan and his associates. Likewise, in a particular place, the accused has provided them food, cloths and medicine etc. Therefore, it is quite clear that without any basis or without sufficient materials, a case has been registered against the respondent/accused and the same has been investigated in a perfunctory manner and subsequently, filed a final report.

12. Even at the risk of repetition, the Court would like to point out that the prosecution has not chosen to mark the concerned newspapers, for the purpose of knowing the statements alleged to have been given by the accused. Further, the prosecution, as taunted earlier, has not adduced proper evidence with regard to the place where the alleged offences are said to have been committed. Therefore, it is needless to say that the prosecution has miserably failed to prove the charge framed against the accused.

13. The trial Court, after considering lack of evidence on the side of the prosecution, has rightly acquitted the accused. In view of the discussion made earlier, this Court has not found any acceptable force in the contention put forth on the side of the appellant and altogether, the present criminal appeal deserves to be dismissed.

In fine, this criminal appeal is dismissed. The order of acquittal passed in Calendar Case No.45 of 2004 by the trial Court is confirmed.

Sd/-  
Asst.Registrar (CCC)

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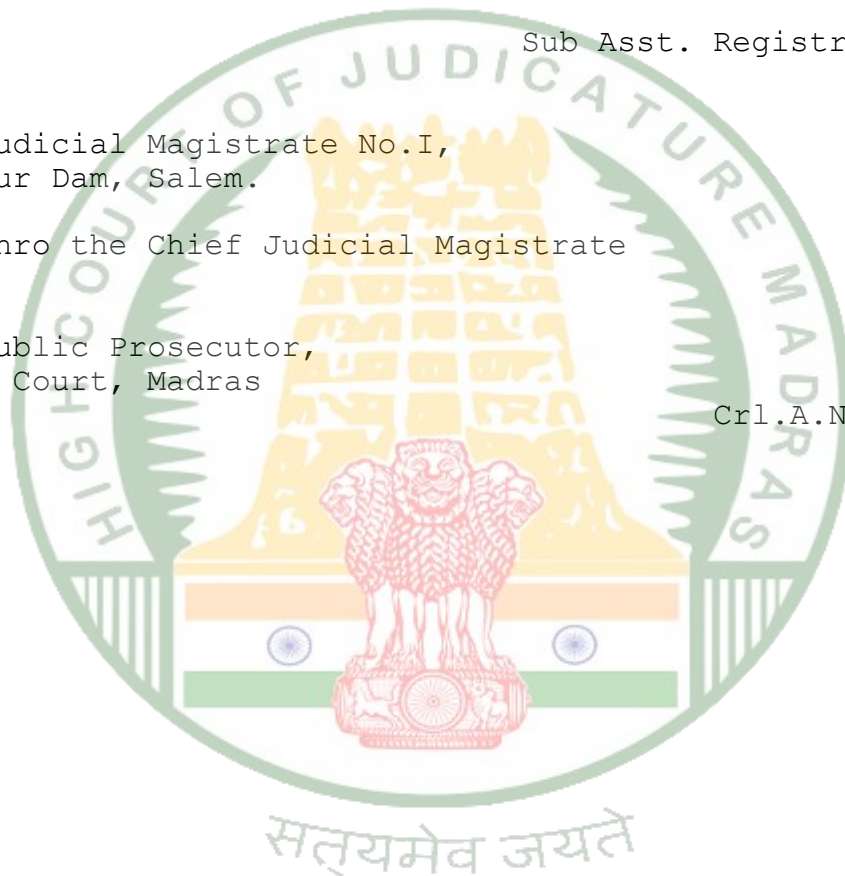
Sub Asst. Registrar

To :

- 1.The Judicial Magistrate No.I,  
Mettur Dam, Salem.
2. do thro the Chief Judicial Magistrate  
Salem
- 3.The Public Prosecutor,  
High Court, Madras

Crl.A.No.275 of 2006

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