

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.408 of 2012

V.Gurunathan

... Petitioner/De facto
Complainant (P.W.1)

Vs.

1. The State Rep. by,
The Inspector of Police,
Mecherry Police Station.
(Crime No.137 of 2008). ... 1st Respondent/Complainant

2. Uma

3. Ananthi

4. Latchumanan ... Respondents 2 to 4/Accused 1 to 3

Prayer :- Criminal Revision Case filed under Section 397 r/w.
401 of Cr.P.C., against the judgment dated 14.12.2010 made in
C.C.No.127 of 2008 on the file of the learned Judicial
Magistrate No.II, Mettur Dam, Salem District.

For Petitioner : Mr.A.C.Kumaragurubaran

For R-1 : Mr.K.Mathan,
Government Advocate (Crl.Side)

For RR-2 to 4 : Notice sent. Service awaited

WEB COPY
ORDER

This criminal revision case is directed against the order dated 14.12.2010 passed by the learned Judicial Magistrate No.II, Mettur Dam, Salem District, in C.C.No.127 of 2008, acquitting the accused from the charges under Sections 379 and 414 of IPC.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate (Crl.Side) appearing for the first respondent.

3. In this case, on a reading of the order of the trial Court, it is seen that the Inspector of Police, Mecherry Police Station had preferred a complaint before the learned Judicial Magistrate No.2, Mettur, Salem District, in C.C.No.127 of 2008 against the respondents 2 to 4 herein/accused 1 to 3 for the offences under Sections 379 and 414 of IPC. The revision petitioner herein/de facto complainant was examined as P.W.1 in the said case. The learned Magistrate, after analyzing the oral and documentary evidence, acquitted the accused 1 to 3 from the said charges on the ground of benefit of doubt under Section 248(1) Cr.P.C., on 14.12.2010. As against the said order of acquittal passed by the learned Judicial Magistrate No.II, Mettur Dam, Salem District, in C.C.No.127 of 2008, on 14.12.2010, the petitioner, who was examined as P.W.1, had preferred this criminal revision case before this Court.

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, this criminal revision case is not at all maintainable before this Court and hence, the same 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.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Judicial Magistrate No.II,
Mettur Dam, Salem District.
2. Do Through The Chief Judicial Magistrate,
Salem.
3. The Inspector of Police,
Mecherry Police Station.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.A.C.Kumaragurubaran, Advocate, S.R.No.52614

Cr1.R.C.No.408 of 2012

VD(CO)
CA(28/09/2016)