

Crl.O.P.No.18565 of 2016

in

Crl.A.SR.No.19243 of 2016

R.SUBBIAH, J

The petitioner seeks leave of this Court to file an appeal against the judgment of acquittal dated 23.12.2015 made in C.C.No.116 of 2011 passed by the learned Judicial Magistrate No.I, Sankari.

2. The case of the prosecution is that on 24.4.2011 at about 3.00 p.m., the respondents 2 to 5 / accused 1 to 4 and 15 others came to the petitioner's land and damaged the planted Tapioca sticks. When the petitioner questioned the same, the respondents 2 and 4 started scolding her with filthy language and the respondents 3 and 5 attacked her on her back and pulled her down. While the petitioner was running to her house, the second respondent threw a stone on her left foot and caused injuries. Hence, she lodged a complaint with the first respondent police and based on the said complaint a case was registered and after completion of investigation, charge sheet was filed as against the respondents 2 and 3 alone for the offence under Sections 426, 294(b), 323 and 324 I.P.C.

Thereafter, the trial Court, after examination of the prosecution witnesses, on application by the prosecution, impleaded the respondents 3 and 4 on the ground that prima facie commission of offences was also made out against them. However, after completion of trial, the trial Court acquitted all the accused / respondents 2 to 5.

3. Learned counsel appearing for the petitioner submitted that though the prosecution has examined as many as 10 witnesses, the trial Court, without considering the same in proper perspective, acquitted the respondents 2 to 5 on the ground that there are huge contradictions from the original statement and the deposition of P.W.1 and other witnesses with the second statements of the witnesses allegedly recorded by the investigating officer. Thus, he sought for leave of this Court.

4. Learned counsel appearing for the respondents 2 to 4 opposed to grant leave to the petitioner.

5. Though the fifth respondent was served and his name appears in the cause list, he has not chosen to appear before this Court either in person or through counsel.

6. I have heard the learned Additional Public Prosecutor appearing for the first respondent.

7. I have considered the submissions made by the learned counsel appearing for the petitioner, learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the respondents 2 to 4 and perused the judgment of the trial Court and prima facie, I find certain arguable points in this matter. Thus, it is a fit case to grant leave. Hence, leave is granted as against the respondents 2 to 5. However, the respondents 2 to 5 are at liberty to make all their submissions at the time of final hearing of the appeal. Registry is directed to number the appeal, if it is otherwise in order.

31.08.2016

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DATED: 31.8.2016