

Crl.O.P.No.18883 of 2016 in
Crl.A.SR.No.35215 of 2016

S.NAGAMUTHU, J.
AND
V.BHARATHIDASAN, J.

[Order of the Court was made by **S.NAGAMUTHU, J.,**]

Seeking leave to appeal against the acquittal of the second respondent herein, who is the sole accused in S.C.No.139 of 2015 on the file of the learned Additional District and Sessions Judge, Dharmapuri, the appellant has come up with this petition.

2. The second respondent stood charged for offence under Section 302 IPC. By Judgment dated 29.06.2016, the trial Court has acquitted him.

3. The case of the prosecution in brief is as follows:

There were many transaction between the accused and the deceased. The deceased was demanding repayment of the some amount from the accused. Apart from that, the deceased had developed illicit intimacy with the wife of the accused. These are stated to be motive for the occurrence. It is alleged that on 05.04.2015, the deceased left his house around 9 pm. On the next day, he was found lying dead with injuries at a far off place. P.W.1, the son of the deceased after having seen the dead body made a complaint to the police. On registering the case, P.W.14 took up the case for investigation.

4. In order to prove the case, on the side of prosecution, P.Ws.2 and 3, have

been examined as eyewitnesses. They have stated that around 11 pm, when they were coming in a motor cycle, they found the accused sitting on the dead body of the deceased by the side of the road and killing him. They have further stated that when they shouted, the accused ran away from the scene of occurrence. These two witnesses have been disbelieved by the trial Court taking into account of their conduct. Though they say that they have witnessed the occurrence by 11 pm until the Police came to the spot for the purpose of investigation for registration of the case, they did not disclose about the occurrence to anyone. P.W.14 has stated that he came to the place of occurrence at 9 am and took up the case for investigation at 9.15 am. Thus, P.Ws.2 and 3 did not disclose about the occurrence till 9.15 am. This conduct has been taken note of by the trial Court to disbelieve them.

5. Apart from that, the prosecution relies on the so-called extra judicial confession given by the accused to P.W.4 on 13.04.2015. This has also been disbelieved by the trial Court. One of the reasons for rejecting the so-called extra judicial confession is that according to P.W.4, as it was orally confessed by the accused, he got the same reduced into writing in his own hand writing and then he signed the same. But, what is available in Court is a printed matter. Thus, it is difficult to believe the extra judicial confession also. Thus, for sound reasons, the trial Court has acquitted the accused.

6. The learned counsel for the appellant is not able to point out anything on record even to make out a case for grant of leave to appeal. In our considered view,

this is not a fit case for grant of leave. Hence, the petition is dismissed.

[S.N.J.,] [V.B.D.J.,]

kua

23.08.2016

**S.NAGAMUTHU, J.
AND
V.BHARATHIDASAN, J.**
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23.8.2016