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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Appeal No.184 of 2018

A.Annamalai
S/o.Ayyadurai

..Appellant/PW1

Vs.

1. State represented by
Sub-Inspector of Police,
Kanai Police Station,
Villupuram Taluk.
Crime No.136 of 2009

2. Geetha
W/o.Bhaskar

3. Annadurai
S/o.Thambu Naidu

4. Chinnaraj
S/o.Govindasamy

..Respondents/Complainant/
Accused 1 to 3

Criminal Appeal preferred under Section 374 of Code of Criminal Procedure against the judgment of learned Judicial Magistrate I, Villupuram, passed in C.C.No.489 of 2009 on 03.08.2010.

For Appellant : Mr.V.Sairam
For Respondent : Mr.V.Arul,
Additional Public Prosecutor [R1]
Mr.R.Ramesh Kumar [R2 to R4]
No appearance

J U D G M E N T

This appeal arises against the judgment of learned Judicial Magistrate I, Villupuram, passed in C.C.No.489 of 2009 on 03.08.2010.

2. Case of prosecution is that on 21.04.2009, accused, owing to land dispute, entered the agricultural field of PW-1 and caused damage to the land, 'manila grams' cultivated in the field and thatched hut as also issued life threats. A case was



registered in Crime No.136 of 2009 on the file of first respondent. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.447, 427 and 506(ii) IPC against A1 and 447 and 427 IPC against A2, the case was tried in C.C.No.489 of 2009 on the file of learned Judicial Magistrate I, Villupuram.

3. Before trial Court, prosecution examined 7 witnesses and marked 4 exhibits. None were examined on behalf of defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 03.08.2010, acquitted accused/respondents 2 to 4. There against, the present appeal has been filed.

4. Heard learned counsel for appellant and learned Additional Public Prosecutor for first respondent. There is no representation for respondents 2 to 4.

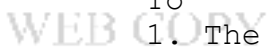
5. In rendering a finding of acquittal, trial Court has found that PW-1, in cross, had admitted that a civil case and two criminal cases are pending between them and accused and the witnesses in the present case are witnesses in such cases also. PWs.1 to 3 were seen to be interested witnesses. PWs.5 and 6, in cross, deposed that they did not know the contents in the observation mahazar and they have signed the same upon the instructions of police officials. They were not eye-witnesses to the occurrence. PW-7, investigation officer, in cross, deposed that no material objects have been seized and no photographs have been taken and there was no proof to establish that PW-1 has cultivated sugarcane in the field. In the absence of photographs, it was doubtful whether the accused have damaged the 'manila gram' or the 'sugarcane' said to have been cultivated by PW-1. Further, no witnesses spoke about the threat said to have been issued by first accused. There was no explanation on the side of prosecution for two days delay in forwarding the First Information Report to Court. On the above finding, trial Court has held that the prosecution has failed to establish its case beyond reasonable doubt and accordingly, rendered a finding of acquittal. This Court finds no error in the judgment under challenge.

The Criminal Appeal shall stand dismissed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar



1. The Judicial Magistrate I,
Villupuram.

3. The Sub-Inspector of Police,
Kanai Police Station,
Villupuram Taluk.

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