

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

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THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.514 of 2014

and

M.P.No.1 of 2013

Mrs.Lakshmi

.... Petitioner

vs

1.The Inspector of Police,
Tali Police Station,
Krishnagiri District.
(Cr.No.45 of 2007)

2.Harish

... Respondents

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in C.C.No.7 of 2009 on the file of the District Munsif Cum Judicial Magistrate Court, Denkanikottai, Krishnagiri District and enhance the punishment.

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For Petitioner : Mr.John Richard Ebenezer

For Respondents : Mr.R.Ravichandran for R-1
Government Advocate(Crl. Side)
Mr.E.Kannadhasan for R-2

ORDER

The petitioner is the defacto complainant in C.C.No.7 of 2009 on the file of the learned District Munsif Cum Judicial Magistrate Court, Denkanikottai, Krishnagiri District, seeking enhancement of sentence, the present criminal revision case has been filed.

2. The second respondent herein stood charged for an offence under Section 374 IPC and Sections 16 and 17 of the Bounded Labour System(Abolition) Act,1976(hearing after called as Bounded Labour Act), in C.C.No.7 of 2009 on the file of the learned District Munsif Cum Judicial Magistrate Court, Denkanikottai, Krishnagiri District. The Court below convicted the second respondent under Section 374 IPC and sentencing him to pay a fine of Rs.500/- in default, to undergo three months rigorous imprisonment and convicted him under Section 16 of the Bounded Labour Act and sentencing him to pay a fine of Rs.1000/- in default, to undergo, three months rigorous imprisonment and convicted him under Section 17 of the Bounded Labour Act and sentencing him to pay a fine of Rs.1000/- in default, to undergo, three months rigorous imprisonment. Being aggrieved with the above sentence imposed by the Court below, the present criminal revision case has been filed by the defacto complainant.

3. I have heard Mr. John Richard Ebenezer, the learned counsel appearing for the petitioner and Mr. R. Ravichandran, the learned Government Advocate (Crl Side) appearing for the first respondent and Mr. E. Kannadhasan, the learned counsel appearing for the second respondent and perused the materials available on record.

4. The learned counsel appearing for the petitioner would submit that Section 16, of the Bounded Labour Act, the prescribed a minimum sentence for a term which may extend three years and also with fine which may extend to Rs.2000/- and Section 17 of the Bounded Labour Act, prescribes a minimum sentence which may extend to three years, and also with fine which may extend Rs.2000/- and for the offence under Section 374 IPC, the sentence prescribed is one year rigorous imprisonment or with fine or with both. But, the Court below only imposing a fine amount for the offence under Sections 16 and 17 of the Bounded Labour Act, without imposing any sentence for imprisonment. Hence, he sought for enhance the sentence.

5. Per contra, the learned counsel appearing for the second respondent would submit that the Court below after considering the mitigating circumstances of the case, imposed a lessor sentence which need not be

interference. Hence he sought for dismissal of the criminal revision case.

6. I have considered the rival submissions.

7. Sections 16 and 17 of the Bounded Labour Act is reads as follows:-

"16. **Punishment for enforcement of bonded labour.**—Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

17. **Punishment for advancement of bonded debt.**—Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

8. As rightly contended by the learned counsel appearing for the petitioner that Sections 16 and 17 of the Bounded Labour Act, prescribes a punishment with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees, but the Court below only imposed a fine of Rs.1000/- without imposing any sentence of

imprisonment, without assigning any special reasons. The Hon'ble Supreme Court in number of occasions has held that wherever a minimum sentence of imprisonment prescribed under any act, the Court must necessarily impose the sentence of imprisonment and cannot left with mere fine alone. In the above circumstances, the Court below without considering the punishment prescribed under the Bounded Labour Act, mechanically imposed a fine amount only without granting any sentence of imprisonment.

9. In the above circumstances, the judgment of the Court below is set aside. So far as imposing sentence is alone, the matter is remanded back to the trial Court and the trial Court is directed to award appropriate sentence as prescribed under the Bounded Labour Act, after following the procedure contemplated under law.

10. With the above direction, the criminal revision case is disposed of. Consequently, connected M.P. is closed.

सत्यमेव जयते

10.04.2017

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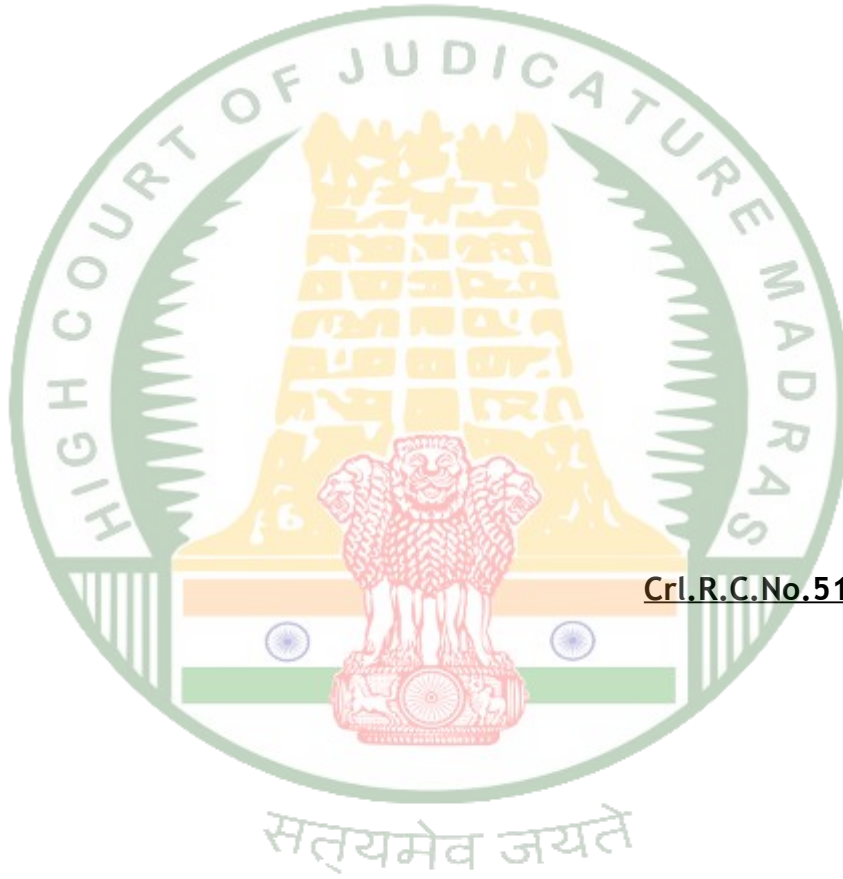
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To

- 1.The District Munsif Cum Judicial Magistrate Court,
Denkanikottai, Krishnagiri District,
- 2.The Inspector of Police,
Tali Police Station, Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

V.BHARATHIDASAN.J
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