

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.56 of 2014

Harinarayan

.. Petitioner

Vs

1. State rep. By its
Inspector of Police,
Mangalapuram Police Station,
Namakkal District.

2. Babu

3. Suresh

.. Respondents

Prayer:- Criminal Revision filed under Sections 397 and 401 of Cr.P.C., to set-aside the judgment in C.C.No.5 of 2009 dated 16.03.2011 on the file of the Judicial Magistrate Court, Rasipuram, Salem District.

For Appellant : Mr.R.Karthikeyan

For Respondent : Mr.R.Ravichandran,
Gov. Adv. (Crl. Side)
for R1
: Mr.E.Pragasam,
for R2

ORDER

Challenging the order of acquittal passed by the learned Judicial Magistrate, Rasipuram, Salem in C.C.No.5 of 2009 dated 16.03.2011, the present revision has been filed.

2. The respondents 2 and 3 are accused in C.C.No.5 of 2009 on the file of the Judicial Magistrate Court, Rasipuram. They stood charged for an offence under Section 381 IPC and the trial Court, by judgment dated 16.03.2011, after elaborate trial acquitted the accused. Now, challenging the order of acquittal, P.W.6/defacto complainant, is before this Court with this revision.

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

Both the respondents 2 and 3 were working as a cooli in one Santhosh Maise and Industries Ltd and on 11.12.2007 at about 8.00 p.m., both the respondents 2 and 3 had stolen two valves worth about Rs.25,000/- from the from the company of P.W.1 and P.W.1 has lodged a complaint before the respondent police and based on his complaint, P.W.7, Sub-Inspector of Police, registered a case in Crime No.423 of 2007 for an offence under Section 379 IPC and prepared an Observation Mahazar, Ex.P.9. Then he proceeded to the

scene of occurrence, where he prepared an Observation Mahazar, Ex.P.3 and drew a rough sketch, Ex.P.8 and on suspicion, he arrested both the accused and on such arrest, they have voluntarily given a confession and based on the disclosure statement, he recovered the stolen property from the shop of P.W.4 in the presence of the witnesses P.W.8 and P.W.9. Then, he recorded the statements of the witnesses and after completion of investigation, he laid charge sheet against the accused under Section 381 IPC.

4. Based on the above materials, the trial Court framed charges as mentioned in the first paragraph of the judgment and the accused denied the same. In order to prove its case, on the side of the prosecution, as many as 11 witnesses were examined and 11 documents were exhibited, besides 2 material objects were marked.

5. Out of the witnesses examined, P.W.1 is the senior employee of the industries, where the properties were stolen. P.Ws.2 and 3 were the employees working in the industries, and they are witnesses to the Observation Mahazar and Rough Sketch. P.W.4 is the person, who is running a hardware shop, who said to have purchased the stolen property. P.W.5 is a driver of the Omni Van, in which the accused are alleged to have transported the stolen

property. P.Ws.6, 7 and 10 were also employees of the industries, where the valves were stolen and P.W.8 and P.W.9 are witnesses to the arrest and confession statement given by the accused and also recovery of the stolen articles. P.W.11, Sub Inspector of Police registered the complaint and on completion of investigation, he laid charge sheet against the accused._

6. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not choose to examine any witness or mark any documents on their side.

7. Having considered all the above materials, the trial Court acquitted all the accused, in respect of above charges, as detailed in the first paragraph of this judgment. Aggrieved against the acquittal of the accused from the charge, the present Criminal Appeal has been filed.

8. I have heard Mr.R.Karthikeyan, learned counsel appearing for the petitioner and Mr.R.Ravichandran, learned Government Advocate (Crl. side) appearing for the first respondent and Mr.E.Pragasam, learned counsel appearing for the second

respondent and perused the materials available on record carefully.

9. The entire prosecution has relied upon the recovery of stolen articles based on the disclosure statement of the accused. P.Ws.8 and 9 are the witnesses for the arrest and recovery of the stolen articles. Both the witnesses have turned hostile. P.W.4 is a person, who is said to have purchased the stole articles and he has also turned hostile. Considering the above material, the trial court acquitted the accused and there is no evidence available to prove the guilt of the accused.

10. It is settled principal of law that in an order of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him and the fundamental principle of criminal justice delivery system is that every person, accused of committing an offence shall be presumed to be innocent, unless his guilt is proved by a competent Court of law. Secondly if the accused has secured an order of acquittal, the presumption of his innocence is reaffirmed and strengthened by the trial Court. Even if two reasonable conclusions are possible on the basis of evidence on record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court.

11. In the above circumstances, I am of the considered view that the prosecution has failed to prove the charge against the accused beyond any reasonable doubt and the trial court considering all the materials and finding no evidence, acquitted the accused. I find no illegality or irregularity in the order passed by the court below and there is no merit in the revision and the same is deserves to be dismissed.

12. Accordingly, the criminal revision case is dismissed.

03.04.2017

mrp

Index : yes/no

Internet : yes/no

Speaking order/ non-speaking order

To

1. The Judicial Magistrate,
Rasipuram.

2.The Public Prosecutor,
High Court, Madras.

V.BHARATHIDASAN.J.,

mrp

Crl.R.C.No.56 of 2014

03.04.2017

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