

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:09.11.2017

Coram

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.R.C.No.284 of 2011

V.Periyasamy

... Petitioner

Vs.

State by S.I. of Police
Kambainallur Police Station
Kambainallur, Dharmapuri District,
(Cr.No.279 of 2009)

...Respondent

PRAYER: Petition filed under Section 397 and 401 of Criminal Procedure Code to call for the records pertaining to order made in STC.No.266 of 2010 dated 21.12.2010 passed by the Judicial Magistrate Court, Harur and expunge the acquittal by benefit of doubt and to modify the same as Honorary acquittal. (Amended as per the order of the Court dated 18.04.2011 in M.P.No.1 of 2011).

For Petitioner : No Appearance
For Respondent : Public Prosecutor - N.A.

ORDER

There is no representation for the revision petitioner.

2.This revision petition has been filed against the order of the Judicial Magistrate, Harur, extending benefit of doubt to the petitioner/ accused.

3.Even though, there is no representation for the petitioner, considering the relief sought for in the revision petition, this Court, on a perusal of materials, intends to dispose of the revision petition.

4.The revision petitioner was originally charged for the offence under Section 160 of I.P.C. During the trial, though eight witnesses have been examined, seven witnesses concerned to the occurrence and investigation turned hostile and not supported the prosecution.

5. On entire evidence, no piece of evidence available against the accused. The Trial Court, however, extended benefit of doubt, instead of acquitting the accused under Section 255 of Cr.P.C.

6. Therefore, this Court is of the view that the question of benefit of doubt would not arise in this case. The Magistrate ought to have acquitted the accused under Section 255 of Cr.P.C. since, the case being the summons case.

7. Accordingly, this Court modifies the order dated 21.12.2010 passed by the Judicial Magistrate, Harur to that of mere acquittal, since, there was no evidence.

5. With the above observation, this Criminal Revision case is disposed of.

Sd/-
Assistant Registrar(IX)

//True Copy//

Sub Assistant Registrar

To

1. State by S.I. of Police
Kambainallur Police Station
Kambainallur, Dharmapuri District.
(Cr.No.279 of 2009)

2. The Judicial Magistrate,
Harur

3. do-thro The Chief Judicial Magistrate,
Dharmapuri.

Copy to: The Public Prosecutor, High Court, Madras-104.

PPA(CO)
sm:30.11.2017

CRL.R.C.No.284 of 2011