

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM :

THE HONOURABLE MR. JUSTICE B.GOKULDAS

Crl.RC.No.646 of 2011

Krishnaraj

... petitioner

Vs.

Sub Inspector of Police,
Kodumudi Police Station,
Erode District.
(Cr.No.219 of 1999)

... Respondent

PRAYER : Revision is filed under Section 397 and 401 Criminal Procedure Code, to set aside the judgment dated 29.11.2001 passed by the Additional Sessions Judge, FTC No.I, Erode in Crl.A.No.152 of 2001 confirming the conviction and modifying the sentence made in CC.No.46 of 2000 on the file of the Judicial Magistrate, Kodumudi dated 23.08.2001.

For petitioner : M/s.S.Doraisamy
For respondent : M/s.M.F.Shabana, GA (crl.side)

ORDER

This revision is filed against the judgment dated 29.11.2001 passed by the Additional Sessions Judge, FTC No.I, Erode made in Crl.A.No.152 of 2001 confirming the conviction and modifying the sentence made in CC.No.46 of 2000 on the file of the Judicial Magistrate, Kodumudi dated 23.08.2001.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. side).

3. The Case of the Petitioner in brief as follows:

The petitioner is working as a Field Assistant in the Tamil Nadu Electricity Board. Earlier, a case was registered in Crime No.219 of 1999, based on a complaint received from the complainant for alleged offences under Sections 468 and 471 IPC. After investigation, the Charge Sheet was filed, which was taken on file in CC. No.46 of 2000 on the file of the Judicial Magistrate, Kodumudi. Similarly, several employees working in Tamil Nadu Electricity Board were also charged with similar allegations and the Criminal cases were also pending. All the above issues were referred to Justice Khalid Commission, based

on the recommendation of Justice Khalid Commission, the Tamil Nadu Electricity Board decided to withdraw the Criminal Cases filed against those persons and to that effect, the Electricity Board also issued Board proceedings, vide Per.B.P.(F.B.) No.27 (Administrative Branch) dated 07.11.2002. Subsequently, when the disciplinary proceedings were initiated by the Electricity Board, a batch of Writ Petitions were filed before this Court and a Division Bench of this Court, in Writ Appeal No.2454 of 2002, etc., batch dated 18.12.2002 considering the Board proceedings directed Superintendent Engineer to decide the issues. Considering the above Court proceedings, the Superintending Engineer considered the issue and made a request to withdraw the complaint.

4. The learned counsel appearing for the petitioner would submit that complaint has been sought to be withdrawn only based on the Electricity Board proceedings, in which, number of other employees were charged with the similar charge and the Public Prosecutor being fully satisfied, has sought to withdraw the complaint under Section 321 Cr.P.C. But the trial Court without considering the above aspect mechanically dismissed the application holding that no public purpose would be served. The lower appellate court confirmed the sentence by modifying the period of imprisonment. Aggrieved against the order of the courts below, the petitioner is before this Court.

5. Further, the learned counsel for the petitioner submitted a latest decision of this Court involving the same set of facts and circumstances in Crl.RC.No.567 of 2012 dated 04.01.2017, wherein, this Court permitted the complainant to withdraw the prosecution in CC.No.46 of 2000 based on Justice Khalid Commission's recommendations and by considering the decision of the Division Bench of this Court made in Writ Appeal No.2454 of 2002, etc., batch dated 18.12.2002.

6. The learned Government Advocate (crl. side) would fairly conceded to decide the issue as per the earlier decisions of this Court and based on Justice Khalid Commission's recommendations.

7. As rightly pointed out by the learned counsel for the petitioner, based on Justice Khalid Commission's recommendations the complainant sought to withdraw the prosecution. In view of the above circumstances, the order passed by both the courts below is liable to be set aside and the same is hereby set aside

8. In the result, the criminal revision petition is allowed by setting aside the order of both the Courts below. The trial Court is directed to permit the complainant to withdraw the prosecution in CC.No.46 of 2000.

-s/d-
Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

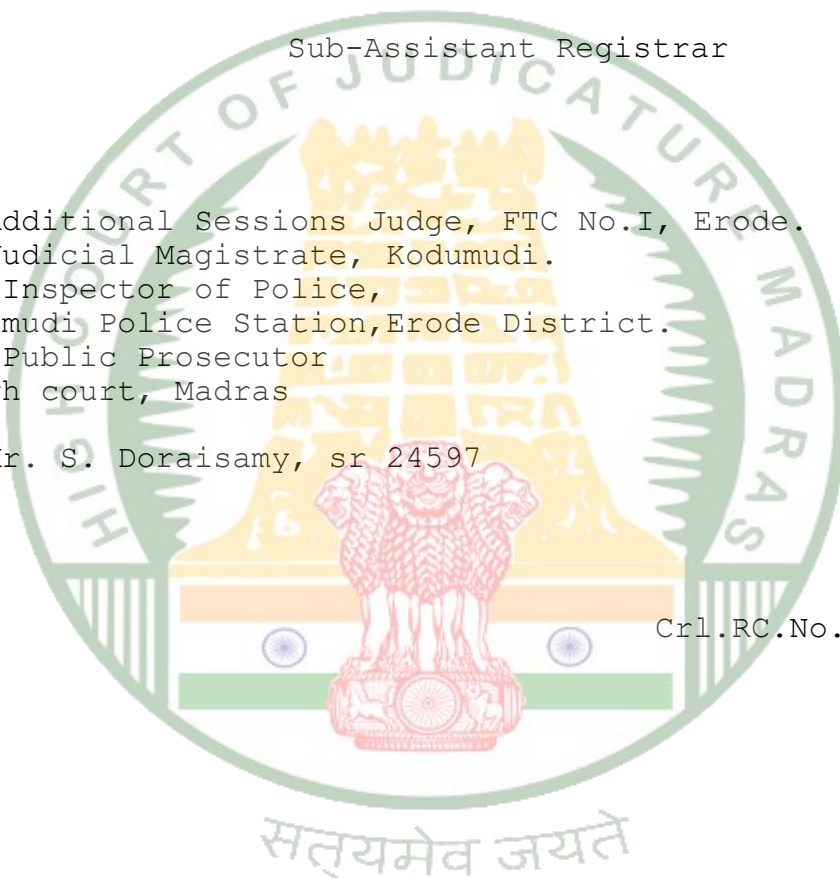
To

1. The Additional Sessions Judge, FTC No.I, Erode.
2. The Judicial Magistrate, Kodumudi.
3. Sub Inspector of Police,
Kodumudi Police Station, Erode District.
4. The Public Prosecutor
High court, Madras

+1 Cc to Mr. S. Doraisamy, sr 24597

Crl.RC.No.646 of 2011

SSI (CO)
sp/11/5



WEB COPY