

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.10.2017

CORAM

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P.No.21731 of 2017
in Crl.A.No.SR.27754 of 2016

Sudha Petitioner/Appellant in
Crl.A.SR.27754/2016
(sought to be prepared)

Vs

1. The State by
The Inspector of Police,
Kolathur Police Station,
Salem District.

2. Manikkam Respondents/Respondents in
Crl.A.SR.27754/2016
(sought to be prepared)

Petition filed under Section 378 (4) of Criminal Procedure Code to grant leave to file an appeal before this Court as against the order of acquittal passed in S.C.No.73 of 2014 dated 26.02.2016 by the learned Assistant Sessions Judge, Mettur, Salem District.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.K.Mathan,
Government Advocate - R1

O R D E R

It is the case of the prosecution that on 14.04.2013 around 10.30 p.m., when Mayakannan, P.W.2, was lying on a cot, outside his house, the accused came there and attacked him with a hammer M.O.3, an agricultural implement on account of which, Mayakannan [P.W.2] suffered injuries. He was rushed to the hospital, where

he was admitted as in-patient for his injuries.

2. On the complaint lodged by Sudha (P.W.1), wife of Mayakannan, the respondent police registered an F.I.R. in Crime No.19 of 2013 under section 307 IPC and the printed FIR is Ex.P.13. After recording the statement of the injured, the eye witnesses and the doctors who treated Mayakannan, the police completed the investigation and filed the charge sheet for the offence under section 307 IPC against Manikam (accused) before the Judicial Magistrate No.I, Mettur in P.R.C.No.19 of 2013.

3. On the appearance of the accused, the copies of the documents were furnished to him under section 207 Cr.P.C. and case was committed to the Court of Sessions in S.C.No.73 of 2014 and was made over to the Assistant Sessions Court, Mettur for trial.

4. During trial, the prosecution examined 13 witnesses, marked 14 Exhibits and 3 material objects.

5. The accused was questioned on the incriminating circumstances appearing against him under section 313 Cr.P.C. and he denied the same. No witness was examined on behalf of the accused nor documents was marked.

6. After analysing the materials on record, the trial Court acquitted the accused on 26.02.2016 in S.C.No.73 of 2014, aggrieved by which, Sudha [P.W.1] has filed the present appeal against acquittal seeking leave to appeal.

7. Heard Mr.Jothimanian, learned counsel petitioner and the learned Government Advocate for the first respondent.

8. Mr.Jothimanian, submitted that the trial court had ignored the evidence of the eye witnesses P.Ws.1 to 3 and had acquitted the accused on flimsy grounds, thereby warranting interference by this Court. He also submitted that Mayakannan [P.W.2] suffered serious injuries and was hospitalised for a long time.

9. This Court gave its anxious consideration to the rival submissions.

10. Leave to appeal is not automatic and leave can be granted only if the Court is convinced that there are prima facie materials to show that the trial Court had acquitted the accused on perverse grounds. In this case, Mayakannan [P.W.2] was a qualified advocate, but was not in practise advocate and was into quarry business. The accused is aged about 55 years at the

time of the incident and he is admittedly the grand father of P.W.1. There was land dispute between them. Mayakannan was found to have cut injuries. But whereas, big hammer M.O.3 was found by the trial Court to be a blunt instrument which could not have caused the injuries on Mayakannan. That apart, the FIR in this case itself has been registered only on the next day, i.e. on 15.04.2013 at 14 hours on the statement given by Sudha (P.W.1).

11. In such view of the matter, this Court does not find any serious infirmity in the judgment of the trial Court acquitting the accused. It is settled law that if there are two views possible, the Court should not routinely interfere with the Order of acquittal. Hence, this is not a fit case to grant special leave.

12. Accordingly, this petition is dismissed. Consequently, the Criminal Appeal is rejected.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Assistant Sessions Judge,
Mettur, Salem District.
2. The Principal Sessions Judge, Salem.
3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.M.R.Jothimanian, Advocate Sr.No.73523

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CO (VGI)
RRI 14/11/2017