

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.9 of 2011

A.Lalitha
W/o.Arumugam

... Petitioner

vs.

1.Shanmugavel
S/o.Kandasamy

2.Baly @ Balasubramanian
S/o.Shanmugavel

3.Babu @ Sankara Rameswaran
S/o.Shanmugavel

4.Mariappan
S/o.Subramanian

5.Sivaramakrishnan
S/o.Palanisamy

6.Senthil
S/o.Veerassamy

7.State represented by
The Inspector of Police,
Needamangalam Police Station,
Thiruvarur,
Nagapattinam District.
Crime No.343 of 2000

... Respondents

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. against the judgment of learned Principal Assistant Sessions Judge, Myiladuthurai, passed in S.C.No.152 of 2005 on 16.02.2007.

For Petitioner : Ms.S.T.P.Kuilmozhi

For Respondents : No appearance [R1 to R3 & R5]
Mr.M.Mohammed Riyaz,
Government Advocate [Crl.side][R7]

ORDER

Petitioner challenges the judgment of learned Principal Assistant Sessions Judge, Myiladuthurai, passed in S.C.No.152 of 2005 on 16.02.2007.

2. The case of the prosecution is that on 30.12.2000 at about 04.00 a.m., the accused, owing to dispute over property in which the *de facto* complainant was running a school by name 'Hemarani Nursery School', have demolished the school using a tractor as also damaged articles worth Rs.2,00,000/-. A case was registered in Crime No.343 of 2000 on the file of seventh respondent. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.147, 148 IPC and 3(1) of The Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, the case was taken on file in S.C.No.152 of 2005 on the file of learned Principal Assistant Sessions Judge, Myiladuthurai.

3. In support of its case, the prosecution examined 13 witnesses and marked 11 exhibits and two material objects. None were examined on behalf of defence, however, one exhibit was marked. On appreciation of materials before it, trial Court, under judgment dated S.C.No.152 of 2005 on 16.02.2007, has held that the prosecution has not established its case beyond all reasonable doubt and

that the accused are entitled for benefit of doubt and accordingly, acquitted them. Hence, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate [Crl.side] for State.

5. In acquitting the accused, trial Court has reasoned as follows:

- (i) Though it was the case of PW-1 that an order in her favour has been passed by civil Court in respect of dispute over property between her and her brother, the certified copy of such judgment has not been produced before Court.
- (ii) There was no eye witness to the occurrence. PW-1 and PW-2 have spoken to receiving information regards demolition of building over phone. The evidence of PW-6 that while he was in a tea shop, A2 and A3 came in a bull dozer and were discussing that they demolishing the school, was not acceptable since he has not informed such information to the investigative officer during enquiry. Further, while it was the evidence of PW-6 that he was working as a night watchman in the school, no explanation has been offered by him why he has not seen the occurrence.
- (iii) PW-7, owner of the bull dozer, deposed that he has never given the bull dozer to the accused. The seizure of lorry, MO-2, in the manner described by prosecution, was also doubtful.

C.T. SELVAM, J

gm

For the aforesaid reasons as also for other reasons, the trial Court has held that the prosecution has failed to establish its case beyond all reasonable doubt and accordingly, afforded the benefit of doubt in favour of accused. This Court finds no reason to interfere with the judgment under challenge.

The Criminal Revision Case shall stand dismissed.

24.03.2017

Index :Yes/No
Internet:Yes/No
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To

- 1.The Principal Assistant Sessions Judge,
Myladuthurai.
- 2.The Inspector of Police,
Needamangalam Police Station,
Thiruvarur,
Nagapattinam District.
- 3.The Public Prosecutor,
High Court, Chennai.

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