



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.A(MD).Nos.297 and 298 of 2017

The State, represented by
The Public Prosecutor,
High Court, Madras
(The Inspector of Factories,
Sivagangai, which was re-designated as
Deputy Director of Industrial Safety and Health,
Sivagangai. ... Appellant/Complainant
in both appeals

-Vs-

1.N.K.Rajendran,
Son of N.V.Krishnamurthy,
Occupier of Valuthur Gas Turbine Power Project,
Survey Nos.269/1 to 10, 10A, 10B, 270/1 to 10,
Valuthur Village, Valantharavai Post,
Ramanathapuram District.
(within the jurisdiction of Kenikarai Police Station,
Ramanathapuram District.) ... Respondent in Crl.A(MD)
No.297 of 2017/Accused

2.P.Sathiyaseelan,
Son of K.Packrisamy,
Occupier of Valuthur Gas Turbine Power Project,
Survey Nos.269/1 to 10, 10A, 10B, 270/1 to 10,
Valuthur Village, Valantharavai Post,
Ramanathapuram District.
(within the jurisdiction of Kenikarai Police Station,
Ramanathapuram District.) ... Respondent in Crl.A(MD)
No.297 of 2017

Common Prayer : Criminal Appeals filed under Section 378(1) of Cr.P.C praying this Court to set aside the judgements of acquittal of the respondents/accused in S.T.C.Nos.2 and 3 of 2011, dated 30.10.2013, passed by the Chief Judicial Magistrate, Ramanathapuram and convict the respondents/accused of the charges framed against them in accordance with law.

For Appellant : Mr.C.Mayilvahana Rajendran
in both appeals Addl.Public Prosecutor

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent : M/s.V.R.Venkatesan
in both appeals

COMMON JUDGMENT

Challenging the order of acquittal, the present Criminal Appeals have been filed.

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2.A case has been registered against the respondents for the offence under Sections 41 Rule 61F and 6(1)(a)(aa)(b) and (c) Rule 3(1)(2) and (3) of the Factories Act, 1948. The allegation against the respondents/accused was that both the respondents are occupiers of Valuthur Gas Turbine Power Project run by the Tamil Nadu Electricity Board. On 20.1.2009, an accident took place in the power plant in which two employees died. Subsequently, an investigation was conducted by the Officials under the Factories Act and found that there are some irregularities. Hence complaints have been filed against the officials and the trial Court after trial, acquitted both the accused giving the benefit of doubt to them. Now challenging the same, the present appeals have been filed.

3.Heard Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the appellant and Mr.V.R.Venkatesan, learned counsel for the respondent and considered the materials carefully.

4.The Court below acquitted the accused mainly on the ground that the prosecution did not examine any witness to prove the lapse on the part of the accused for the death of the employees. The complaints said to have been given by one Sampath Kumar. But the said Sampath Kumar was not examined by the prosecution and P.W.1 to 3 were officials of the Factories Department and they are not eye witness to the occurrence. The Inspection Report filed by the prosecution is also not satisfactory. After the occurrence, no inspection was conducted immediately, and the alleged inspection has been done after a week of the accident.

5.Considering all those facts, the court below come to the conclusion that the prosecution has not proved the case beyond reasonable doubt. In an appeal against 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
<https://hcservices.mca.gov.in/hcservices/> record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court.



6. In the above circumstances, there is no merit in the Criminal Appeals. Thus the Criminal Appeals fail.

7. Accordingly, the Criminal Appeals are dismissed.

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Sd/-
Assistant Registrar(Protocol)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Ramanathapuram.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2cc to M/S.V.R.Venkatesan, Advocate SR.No. 69586, 69587

Cr1.A(MD).Nos.297 and 298 of 2017
02.08.2017

vsn
JM/MR KKR/SAR 2/23.08.2017/3P/5C