



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.772 of 2017

Ashok

: Petitioner / A3

Vs.

The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District
(In Crime No.98 of 2014)

: Respondent / Complainant

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records of Judgment dated 06.06.2017 in C.C.No.433 of 2014 passed by the learned District Munsif cum Judicial Magistrate, Manamadurai and modify the phrase 'Benefit of doubt" to the effect that the petitioner / A3 shall stand acquittal.

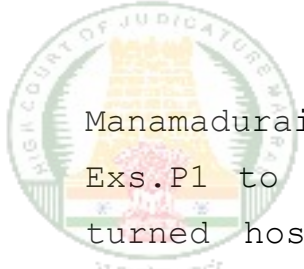
For Petitioner : Mr.P.Krishnasamy

For Respondent : Mr.C.Mayilvahana Rajendran
Addl.Public Prosecutor

O R D E R

The Criminal Revision has been filed praying to call for the records of Judgment dated 06.06.2017 in C.C.No.433 of 2014 passed by the learned District Munsif cum Judicial Magistrate, Manamadurai and modify the phrase 'Benefit of doubt" to the effect that the petitioner / A3 shall "stand acquittal".

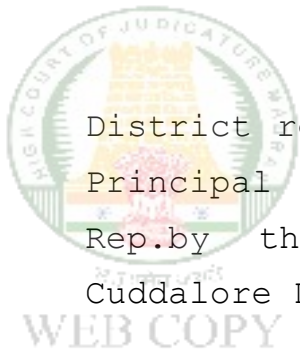
2. The petitioner herein is arrayed as A3 in C.C.No.433 of 2014, on the file of the learned District Munsif-cum-Judicial Magistrate, Manamadurai. Final report was filed against the petitioner and 3 others for the offences punishable under Sections 386 and 306(11) of IPC., by the respondent Police and the said case was tried by the learned District Munsif-cum-Judicial Magistrate,



Manamadurai. Prosecution has examined P.Ws.1 to 7 and marked Exs.P1 to P12 and M.Os.1 & 2 during their evidence. P.Ws.1 to 6 turned hostile and did not support the case of the prosecution during trial, and also the trial Court has come to the conclusion that the case of the prosecution is also not proved on the evidence of P.W.7 / Sub-Inspector of Police. Thereafter, the trial Court has examined the accused under Section 313(1)(b) of Cr.P.C., considering the incriminating materials found in the evidence of prosecution, which were denied by the accused and sought time for producing the defence witnesses and lastly, no witness was produced by the defence side and the trial Court went through the evidence of prosecution and also arguments advanced by the accused side and came to the conclusion that the charges framed / against the accused under Sections 387 and 506(ii) of IPC., are not proved by the prosecution and the accused were acquitted from the charges giving benefit of doubt in favour of the accused and pronounced the Judgment of acquittal under Section 248(1) Cr.P.C., in its Judgment dated 06.06.2017.

3. The present Revision is preferred by A3 to expunge the remarks "acquittal giving them benefit of doubt" as found in paragraph 21 of the Judgment, dated 06.06.2017 in C.C.No.433 of 2014 and to modify to the effect that "stands acquitted honourably or acquittal simpliciter" since the stigma "acquittal" on benefit of doubt, which causes irreparable loss and much hardship and also affects the future and carrier of the petitioner and 'acquittal on benefit of doubt' is a stumbling block in getting employment and pursuing higher education in future.

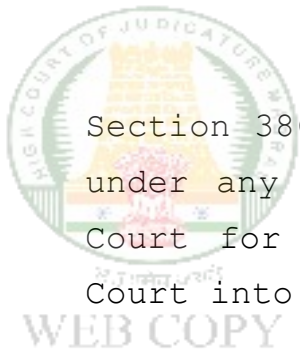
4. The learned counsel appearing for the Revision Petitioner relies several decisions, which are not applicable to the facts of the case on hand and particularly, he relies the following decisions in respect of "Honourable acquittal". The Division Bench Judgment of this Court in V.Rajamani and Another Vs. the Sub Inspector of Police, Usilmapatti Taluk Police Station, Usilampatti, Madurai



District reported in (2013 (2) MLJ (Cr1.) 580) and the Judgment of Principal Bench of this Court in E.Kalivarathan Vs. The State, Rep.by the Sub-Inspector of Police, Pudupet Police Station, Cuddalore District reported in (2015 (1) CTC 87).

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the issue of "honourable acquittal" and also "maintainability of Criminal Revision" before this Court, seeking the relief of "honourable acquittal or acquittal" against the Judgment of acquittal have been settled by the Division Bench of this Court in M.Krishnan Vs. The State reported in (2014(3) MWN (Cr.) 203), wherein it has been held that there is no prohibition of law for Criminal Courts to use the expressions such as "benefit of doubt" and "beyond reasonable doubt", though Sections 232, 325, 248 and 255 of the Code, 1973 use only simple expression namely, 'acquittal' without any adjectives. There are not not different forms nor different degrees of acquittal in so far as criminal jurisprudence is concerned. The expression, 'Proof beyond reasonable doubt' and 'Benefit of doubt' are actually tools that guide the subjective mind of the Judge to arrive at a finding whether the accused is guilty or not. However, there is no prohibition in law for use of such expressions.

6. Regarding the issue of maintainability of preferring Criminal Revision before this Court empowering this Court to alter the "acquittal" into "Honourable Acquittal", it is further held in the Division Bench Judgment reported in (2014 (3) MWN (Cr.) 203) (cited supra) that the Revision filed by the accused, who is acquitted by the trial Court, is not maintainable either as appeal under Sections 372 to 380 Cr.P.C., or as Revision under Section 397 of Cr.P.C., The power under Section 401(1) r/w 386(d) of the Code cannot be invoked and moreover, the revisional jurisdiction of the High Court while dealing with an order of acquittal is narrower in its scope and the order of acquittal will not come within the ambit of definition of expression "any other order" in clause (d) of



Section 386 of Cr.P.C. No Revision or Appeal or any other petition under any of the provision of Cr.P.C., can be entertained by this Court for converting an order of 'acquittal' passed by the trial Court into an order of 'honourable acquittal'.

7. This Court is also concurred with the above findings of the Division Bench Judgment of this Court reported in (2014(3) MWN (Cr.) 203) (cited supra). The above said Judgment is not yet set aside sofar by way of appeal. In view of the above said decision of this Court, this Court is not inclined to entertain this Revision seeking to alter / amend the Judgment of the 'acquittal' into "honourable acquittal", which is also not maintainable.

8. The decision relied by the petitioner in the Judgment of Principal Bench of this Court reported in (2015 (1) CTC 87) (cited supra), which also states the expression that the 'honourable acquittal' is relevant to Service Law Jurisprudence or other jurisprudence and not Criminal Law Jurisprudence. Therefore, the criminal Court while acquitting the accused undoubtedly cannot employ the term "that the accused is / are honourably acquittal". Anyhow, however, as per the said Division Bench Judgment of this Court, the Revision is not maintainable in respect of the issues raised in this criminal revision.

9. In the result, this Criminal Revision stands dismissed.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

1.The District Munsif cum Judicial Magistrate,
Manamadurai.

2.The Inspector of Police,
Thiruppanethi Police Station,
Sivagangai District



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

4.The Record Keeper,
Criminal Record Section
Madurai Bench of Madras High Court. (2 Copies)

+1cc to M/S.P.KRISHNASAMY, Advocate SR.No.92191.

Cr1.RC (MD) No.772 of 2017
08.12.2017

MPK
SDS/JC/SAR 1/19.01.2018/5P/7C