

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2018

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.A.No.68 of 2018

State Represented by
The Public Prosecutor,
High Court, Madras-104.
(Crime No.8/AC/2008
of Dharmapuri V & AC)

.. Appellant

Vs.

Tr.S.Venugopal

.. Respondent

Prayer: Criminal Appeal filed under Section 378 (1) (b) of Cr.P.C. to allow the appeal and set aside the acquitted Judgment dated 27.07.2017 in Special C.C.No.01 of 2010 on the file of the Chief Judicial Magistrate Cum Special Court, Dharmapuri and convict the respondent/accused as charged.

For Petitioner : Mr.P.Govindarajan
Additional Public Prosecutor
For Respondent : Mr.R.Ravindran

JUDGMENT

This appeal is against the order of acquittal passed by the Chief Judicial Magistrate Cum Special Court, Dharmapuri, dated 27.07.2017, and to convict the respondent/accused as charged.

2. Heard Mr.R.Govindarajan, learned Additional Public Prosecutor appearing for the appellant. Mr.R.Ravindran, the learned counsel appearing for the respondent/accused.

3. The trial Court after appreciating the evidence of the defacto complainant and the accompany witnesses namely- Palaniammal PW2 and Tamilarazhi PW3 and the other ocular evidence has found there is no material to the charge framed under Section 13 (2), 13 (1) (d) Cr.P.C. Aggrieved by that the state has preferred the appeal on the ground that the Trial Court has not properly appreciated the evidence of PW.2, PW.3, PW.8 and PW.19.

4. However, the learned counsel appearing for the respondent/accused pointing out the contradiction in the evidence of PW.2 and PW.3 regarding the receipt of tainted money

and submitted that in the light of non-corroboration of the evidence of PW.2 and an interested witness who has alleged false complainant due to ill motive cannot be the basis for convicting the accused person and the trial Court has rightly ordered acquittal.

5. On perusing the evidence of PW.2 and PW.3 this Court finds that the prosecution has failed to prove the demand as well as acceptance. There is discrepancy in respect of scene of recovery of the tainted money. The specific evidence let in by the prosecution witness No.2 is that the tainted money of Rs.3,000/- was placed in the bag fixed on the petrol tank of two wheeler as per the instruction of the accused person and at that point of time PW.3 was also present and the accused enquired who is the person accompanying the defacto complainant for which the defacto complainant has said she is her relative. Where as PW.2 has deposed that she was standing far from the place and watching the event. So the very allegation that the money was given by PW.2 in the presence of PW.3 goes unproved so also the statement of deposition regarding the alleged enquiry made by the accused person about the PW.3.

6. The learned Additional Public Prosecutor had furnished the copies of the deposition to this court. On perusal of the deposition the material contradiction in the deposition of PWs.2,3,8 and 19 regarding the admission and acceptance of the tainted money is seen.

7. The reading of the evidence of PW.19, this Court finds the trap laying officer corroborate the version of PW.3 and not PW.2, regarding her absence near PW.2 during the transaction of tainted money. Therefore when the defence has give a possible explanation for the presence of tainted money in two wheeler bag and accepted by the trial Court to be a reasonable and plausible explanation, the appellate Court need not substitute the view of the trial Court prejudicial to the accused person who was already been tested and protected with an order of acquittal by the trial Court.

7. Since, this Court finds no perversity of illegality in the finding of the trial Court, it does not require any interference. Hence, the Criminal Appeal stands dismissed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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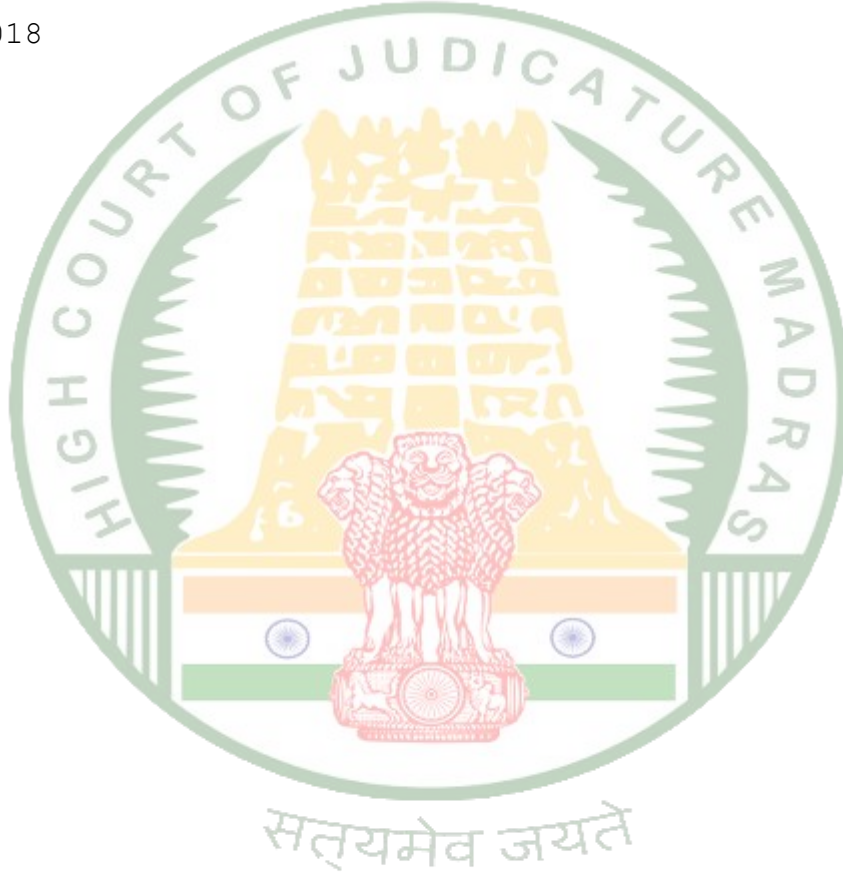
To

1. The Chief Judicial Magistrate Cum Special Court,
Dharmapuri.

2.The Public Prosecutor,
High Court, Madras.

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