

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.216 of 2014

Selvi

...Appellant / Defacto / Complainant

Vs.

1. The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.

2. Pandurangan

3. Ramesh

...Respondents 1 & 2 Complainant

The Criminal Appeal filed under Section 378 of Code of Criminal Procedure against the judgment of the learned Special Judge (Principal Sessions Judge), Villupuram, Villupuram District made in S.C.No.235 of 2010 dated 19.06.2013 acquitting the respondents/accused herein from the charges under Sections 147, 148, 352, 506 (ii) IPC and under Section 3(1)(x) of SC/ST (POA) Act, 1989.

For Appellant : Mr.M.Babu Muthu Meeran

For Respondent : Mr.R.Ravichandran,

Govt. Advocate (Crl.Side) for R1

Mr.A.Jayaraman for R2 & R3

JUDGMENT

Defacto complainant is appellant in the present criminal appeal. She filed a private complain before the learned Judicial Magistrate II, Villupuram, The learned Magistrate after taking cognizance framed charges under Sections 294 (b), 147, 148, 447, 427, 323, 506 (ii) IPC and 3(1) (x) of SC/ST (POA) Act 1989 and committed the case to the Principal Sessions Judge, Villupuram. The learned Sessions Judge, after trial and evidence acquitted the accused by judgment dated 19.06.2013, since they were not found guilty.

2 Aggrieved against the order of acquittal dated 19.06.2013, the defacto complainant has preferred this present criminal appeal.

3 The learned counsel for the appellant would submit that the appellant/defacto complainant had handed over entire records available with her to the Investigating Officer and the Investigating Officer failed to produce the same before the Court below and closure report was filed as "mistake of fact". Hence the defacto complainant seeks re-trial.

4 The learned counsel for the respondents 2 & 3 would submit that P.W.1/defacto complainant herself in cross examination has stated that she is not belongs to SC community, her husband only belongs to SC community. The husband of the defacto complainant, who belongs to SC community was not assaulted. Hence the learned trial Judge, has rightly acquitted the accused, which does not warrants any interference of this Court.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 The learned trial Judge did not speaks anything about P.W.2/husband of defacto complainant, in the judgment, it was only mentioned that P.W.1/defacto complainant is not belongs to SC/ST. Further there is no whisper about the fact whether the Investigating Officer, while filing closure report has filed any community certificate of the defacto complainant or her husband or not. There is no sufficient proof to acquit the accused.

7 In the absence of the above, this Court is inclined to set aside the judgment of acquittal dated 19.06.2013 made by the Court below.

8 Accordingly, the judgment dated 19.06.2013 made in S.C.No.235 of 3010 is hereby set aside and the matter is remitted back to the learned Principal Sessions Judge, Villupuram, to dispose of the case afresh, after considering all the relevant records submitted by the defacto complainant.

9 In the result, the criminal appeal is allowed and the matter is remitted back to the trial Court to consider the case afresh.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

cgi

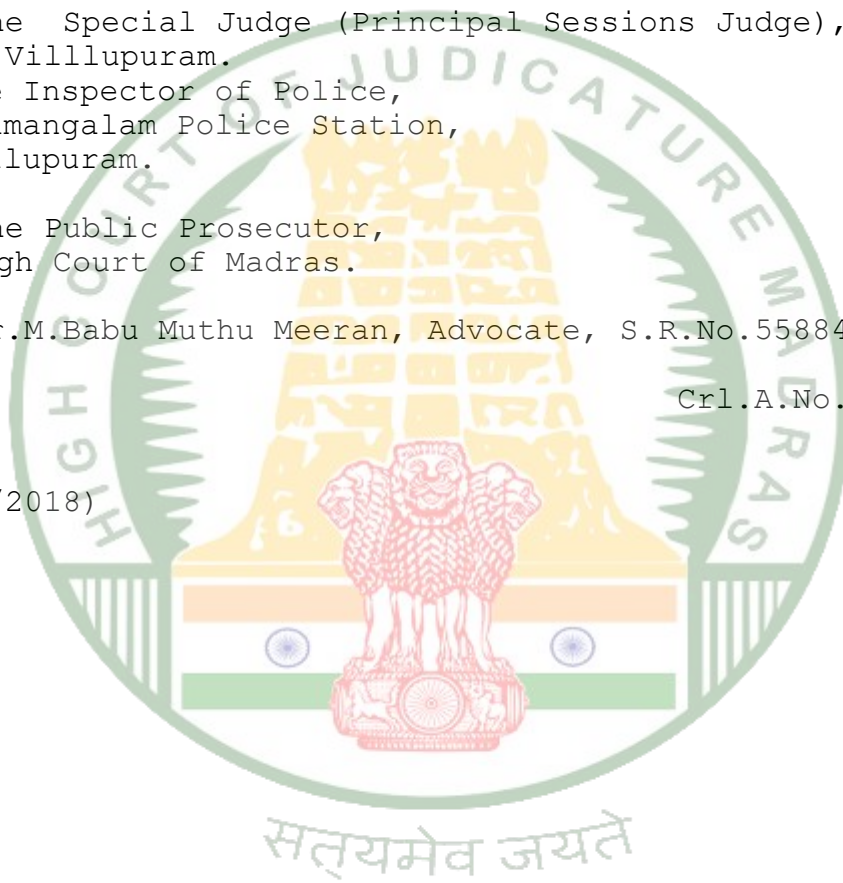
To

1. The Special Judge (Principal Sessions Judge),
Villupuram.
- 2.The Inspector of Police,
Kandamangalam Police Station,
Villupuram.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Babu Muthu Meeran, Advocate, S.R.No.55884

Crl.A.No.216 of 2014

VGII(CO)
GSP(25/09/2018)



WEB COPY