

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1487 of 2017

1.Mahesh Babu

2.Mugesh Babu

....Petitioners/Accused No.1&2

..Vs..

The State rep.by
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District
(Crime No.123 of 2015)

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records relating to the judgment dated 29.03.2016 made in S.T.C.No.1 of 2016 on the file of the Principal District and Sessions Court, Ariyalur and expunge the remark of granting benefit of doubt and to hold it as honorary acquittal for the petitioner.

For Petitioner : Mr.S.Nambi Arooran

For Respondent : Mr.Hari Hara Arun Soma Sankar
Government Advocate (Crl.Side)

O R D E R

The petitioners herein have filed this Criminal Revision to expunge the remark of granting benefit of doubt and further to hold it as a honorary acquittal.

2. Heard both sides and perused the materials available on record.

3. The petitioners herein are A1 and A2 who are the prospective candidates of the Tamil Nadu Uniformed Service and have been acquitted in S.T.C.No.1 of 2016 on the file of the Principal District and Sessions Court, Ariyalur, wherein they stood charged for the offences under Sections 294(b), 323 and 506(i) I.P.C. against A1 and A2 and Sections 294(b) and 506(i) IPC against A3.

4. Having not been satisfied with the impugned order of the acquittal, A1 and A2 have filed Criminal Revision seeking for Honorary acquittal by relying upon the decision rendered by this Court.

5. The case of the prosecution is that the de-facto-complainant Elangovan had contacted A3 Muthiyan for an employment in Overseas and on his promise to get an employment abroad, A3 received Rs.30,000/-. However, he failed to secure a foreign employment and whenever the de-facto-complainant has asked for return of the said amount, A3 has found an excuse and prolonged the repayment and while so, on 9.3.2015 at about 16.00 hours in front of the Rajiv Nagar Nadar shop, while, the defacto-complainant was standing at that time, A3 Muthiyan was crossing the shop and when he enquired for return of the said amount of Rs.30,000/-, and A1 and A2 joined with A3 and uttered obscene words and also caused simple injury by beating him and also criminally intimidated him, and hence, the above charges have been framed against them.

6. It appears that P.W.1 and P.W.2 have turned hostile and only the official witnesses deposed regarding registration of the F.I.R and filing of the charge sheet. The learned Judge has acquitted the accused by giving benefit of doubt. Now, A1 and A2 has moved this Criminal Revision on the ground that since there is no material evidence, they must given honorary acquittal.

7. The learned Government Advocate (Crl.side) brought to the notice of this Court the order passed by Hon'ble Mr.Justice V.Bharathidasan on 28.07.2017 in Crl.R.C.(MD) No.603 of 2017, wherein similar request has been rejected based upon the decision of this Court reported in 2015 (1) CTC 87 [E.Kalivarathan Vs. The State rep by the Sub Inspector of Police, Pudupet Police Station, Cuddalore District]. In the said decision in Crl.R.C.(MD).No.603 of 2017, this Court observed as follows:

"3. The issue involved in this case is squarely covered by the decision 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, wherein this Court has held as

follows:-

"50. Thus, the expression "honourable acquittal" is relevant to service law jurisprudence or other jurisprudence and not for Criminal law jurisprudence. Therefore, the Criminal Court while acquitting the Accused, undoubtedly, cannot employ the term that "that the Accused is/are honourably acquitted". But at the same time, in all cases where there is no evidence at all against the Accused as I have already concluded, the Criminal Court should simply say "acquitted". The Criminal Court may say that there is no evidence against the accused. But, the Criminal Court in such kind of cases, where there is no evidence at all against the Accused, shall not employ the expressions "not proved beyond reasonable doubt" or "Accused is acquitted by giving benefit of doubt".

51. The Division Bench has held under Question No.2 that a Revision would not lie to convert an order of Acquittal as an order of honourable acquittal as the term "honourable acquittal" is unknown to Criminal law. Regarding this proposition also there can be no second opinion, for the Criminal Court, while acquitting an Accused, cannot use the expression "honourable acquittal".

52. In the context of service law jurisprudence, if the petitioner seeks employment, it is for the Appointing Authority to consider the Judgment of the Trial Court in its entirety and to find whether the acquittal is honourable or not for the purpose of employment in the light of the judgment of the Hon'ble Supreme Court in Management of Reserve Bank of India Vs. Bhopal Singh Panchal, 1994 (1) SCC 541.

4. In view of the above, the relief sought for by the petitioner cannot be granted. It at all, the petitioner wants to rely on the judgment acquittal for his employment, the appointing authority should look into the judgment in its entirety and find out whether the acquittal is Honourable or not for the purpose of employment.

5. With these observations, this Revision Petition is disposed of.

8. In view of the above decision of this Court, the revision petition is disposed of in the same terms.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nvi

To

- 1.The Principal District and Sessions Judge, Ariyalur
- 2.The Judicial Magistrate, Ariyalur.
- 3.The Inspector of Police,
Ariyalur Police Station, Ariyalur District.
- 4.The Public Prosecutor, High Court, Madras.
- 5.The Section officer,
Criminal Section, High Court, Madras.

सत्यमेव जयते

Cr1.R.C.No.1487 of 2017

SS(co)

rrs 10/09/2018

WEB COPY