

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.A.No. 355 of 2006

State rep. by the
Inspector of Police,
Perundurai Circle,
Erode District.

.... Appellant/Complainant

Vs.

1.Nallsami
2.Duraisami

... Respondents/Accused

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C. to set aside the order of acquittal passed by the learned Additional District Sessions Judge, Fast Track Court No.I, Erode in C.A. No./ 45/2002, dated 09.07.2002 and confirming the conviction and sentence rendered by the trial Court viz., Sub Divisional Magistrate/Revenue Divisional Officer, Erode in case No. 7525/2000, dated 04.03.2002.

For Appellant : Mr.T.Shanmuga Rajeswaran, GA
for Public Prosecutor

For Respondents : C.Ramkumar

JUDGEMENT

This appeal has been filed by the Inspector of Police, Perundurai Police Station, Erode District. Crime No.424 of 2000 was registered against the respondents herein namely Nallasami and Duraisamy under Sections 342, 347, 313, 315, 365, 323, 294B and 374 IPC.

2. It appears that the investigation was conducted and final report was filed by the learned Judicial Magistrate, Perundurai. Parallel proceedings were initiated before the Revenue Divisional Officer, Erode in Case No. 7525 of 2000 dated 04.03.2002 under Section 16 & 17 of the Bonded Labour Abolition Act, 1976 against the respondent herein.

3. The learned Revenue Divisional Officer, who acts as Judicial Magistrate under the provisions of Central Act No. 19 of 1976 found respondents guilty of the offence under Sections 16 & 17 of the Bonded Labour Abolition Act, 1976 and sentenced them to one year imprisonment and also levied with fine amount of Rs. 2,000/- each.

4. Questioning the same, the respondent herein filed C.A. No. 45 of 2002 before the learned Additional Sessions Judge/Fast Track Court No.I, Erode. The lower Appellate Court, by judgment dated 09.07.2002 allowed the appeal and set aside the order passed by the Revenue Divisional Officer, Erode. Against which the present Criminal Appeal has been preferred by the appellant.

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

6. The lower appellate court has assigned more than one reason for allowing the appeal filed by the accused and acquitting them. The first ground is that copies relied upon by the prosecution were not supplied in terms of Section 207 Cr.PC. The said provision mandates that the Magistrate without delay shall furnish to the accused free of cost the copy of the documents as set out in the said provision.

7. In this case, it is seen that the accused applied for being furnished with the copies of documents in question. In fact, the Revenue Divisional Officer himself has referred to the application filed by the accused. In fact as per the statutory provision of case, there is no need to the accused to apply for these documents. It is duty of the Court to make available such documents to the accused. In this case, notwithstanding the application given by the accused, the Revenue Divisional Officer failed to supply them. The Revenue Divisional Officer assigned the reasons that the trial has already commenced. Further, the lower appellate Court has rightly pointed out that not providing the copies of documents to accused under the statutory provision under 207 Cr.P.C. will greatly affect the case of the accused. It is also seen that even the complainant was not examined in the proceedings. The persons who deposed were not cross examined. The witnesses Thenmozhi and Madheswari were cross examined by the Revenue Divisional Officer.

8. Those witnesses who deposed that there was financial transaction between the parties and that they wanted the proceedings against the accused to be dropped. Therefore, there was no legally admissible material against the accused to come to the conclusion that the said Thenmozhi and Madheswari were treated as bonded labour by the respondent herein.

9. For all these reasons, the lower Appellate Court has chosen to set aside the judgment passed by the trial Judge and acquit the accused. This Court is of the view that the reasons assigned by the lower Appellate Court cannot be interfered with since there is no illegality or infirmity found in the order passed by the lower Appellate Court. Accordingly, this Criminal Appeal stands dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional District Sessions Judge (FTC-I),
Erode.
 - 2.The Sub Divisional Magistrate/Revenue Divisional Officer,
Erode.
 - 3.The Inspector of Police,
Perundurai Circle, Erode District.
 - 4.The Public Prosecutor,
High Court, Madras-104.
- +lcc to M/s.C.Ramkumar, Advocate Sr.51970

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sj[col]
srg 16/09/2019

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