

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

CRL.A.No.1576 of 2002

State by
The Sub Inspector,
Railway Protection Force,
Egmore, Chennai,
rep by the Public Prosecutor

.. Appellant

.Vs.

1.Hariram
2.Lapsingh
3.A.Paksingh
4.Hagi Hat Singh
5.Arjit Singh
6.L.Henctar Singh

... Respondents

Criminal Appeal filed under Section 378 of the Code of Criminal Procedure, 1973, to set aside the judgment and order of acquittal passed in C.C.No.166/89 dated 09.04.1997 on the file of the learned Judicial Magistrate, Tambaram.

For Appellant : Mr.T.Shanmuga Rajeswaran
Government Advocate (Crl Side)

For Respondents: No Appearance for Rs,R3 to R6

JUDGMENT

The State is on appeal, questing the judgment of acquittal made in C.C.No.No.166 of 1989 on the file of the Judicial Magistrate Court on 09.04.1997.

2. The case of the prosecution is that the accused have been in possession of Railway property and this contravened under Section 3(A) of Railway Property unwillful possession Act. Totally seven witnesses were examined on the side of the prosecution and 20 exhibits were marked. On the side of the accused, one wintess was examined and 5 exhibits were marked. M.O.s1 to 8 were marked.

3.The learned Trial Magistrate on going through the entire evidence on record, came to the conclusion that the prosecution did not prove against the accused beyond reasonable doubt. Challenging the impugned judgment, this appeal has been filed.

4.The learned Government Advocate [Crl. Side] appearing for the appellant canvass the ground set out in the memorandum of appeal, this Court is of the view that the reasons assigned in the impugned judgment are sound in whole. For instance, the Inspection Officer Thiru.Shanmuga Velu was himself not examined as witness. When the Investigation Officer himself was not examined, it certainly affects the effective prosecution. That apart, there was nothing on record to show that the property in question is actually a railway property. No documentary evidence was produced on record. It is true that certain documents were sought to be marked in evidence, but they were not established in the manner known to law. Therefore, the trial Magistrate rightly disbelieved the said witness.

5.The occurrence had taken place as early as in the year 1986. The prosecution is of the year 1989. The judgment of the acquittal was pronounced in the year 1997. The appeal itself was filed in the year 2002. Even today, when the appeal is taken for hearing, none appears for the accused. In view of the fact that the learned trial Magistrate had given good and convincing reason for acquitting the accused and this Court warrants no interference, that too, at this point, no merits in the appeal and the appeal stands dismissed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Judicial Magistrate,
Tambaram.

2.The Sub Inspector Railway Protection Force
Egmore, Chennai.

3.The Public Prosecutor
High Court, Madras.

Copy to: The Section Officer,
Criminal Section,
High Court, Madras.

VGII (CO)
CB(19/09/2019)

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