

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.26940 of 2018

Parthiban

.. Petitioner

Vs

The State Represented by
Inspector of Police,
Kallakurichi Police Station,
Villipuram District.
(Crime No.499 of 2015).

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to declare that the acquittal of the petitioner in C.C.No.104 of 2016 rendered by the learned Judicial Magistrate, Kallakurichi, Villupuram District on 15.03.2017 as "Hon'ble acquittal".

For Petitioner : Mr.K.C.Karl Marx

For Respondent : Mr.C.Raghavan
Government Advocate (Crl. Side)

O R D E R

This petition has been filed to declare the acquittal of the petitioner in C.C.No.104 of 2016 rendered by the learned Judicial Magistrate, Kallakurichi, Villupuram District on 15.03.2017 as "Hon'ble acquittal".

2. The learned counsel for the petitioner would submit that based on the complaint given by the de facto complainant, the respondent police filed an FIR in Crime No.499 of 2015 for offences under Sections 294(b), 323, 324 and 506(2) of IPC against four accused persons and the present petitioner was arrayed as A4 in the FIR. Thereafter, the investigation was conducted and a final report was also filed before the concerned Court and the charges were framed for the above said offences. During the course of the trial, the prosecution examined PW1 to PW4, in order to substantiate their case. PW1 is the de facto complainant and PW2 & PW3, who are the other witnesses turned hostile and did not support the case of the prosecution. The only evidence that was available before the Court below was, the evidence of PW4, who was the investigating officer.

3. The learned counsel for the petitioner brought to the notice of the Court, the judgment passed by the Judicial Magistrate, Kallakurichi, wherein, the learned Magistrate has held at Para No.11 of the judgment that the prosecution has failed to prove the case beyond reasonable doubt against the accused persons. The learned counsel would submit that this judgment of acquittal passed by the Court below was not based on the benefit of doubt and the same should be treated only as a "Hon'ble acquittal".

4. The learned counsel for the petitioner also brought to the notice of this Court, the earlier order passed by this Court, under similar circumstances. The relevant portion of the order is extracted here under.

6. This Court is of the considered view that there were totally four witnesses examined on the side of the prosecution and out of the same, three witnesses did not support the case of the prosecution. The only other evidence that was available was that of the Investigating Officer who was examined as PW-4. The Trial Court on examination of the evidence had given a categorical finding that the prosecution has not made out the case against the petitioner beyond reasonable doubts.

7. This Court is also relying upon the earlier order passed by this Court under similar circumstances.

5. The order that has been referred supra will also apply to the facts of the present case. In the considered view of this Court, the acquittal of the petitioner should be construed as "Hon'ble acquittal", since the learned Magistrate has given a categorical finding that the prosecution has not proved the case beyond reasonable doubt.

6. In view of the above, the acquittal of the petitioner in C.C.No.104 of 2016 on the file of the learned Judicial Magistrate, Kallakurichi, Villupuram District, dated 15.03.2017 is hereby held to be a "Hon'ble acquittal".

7. With the above direction, this Criminal Original Petition is allowed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

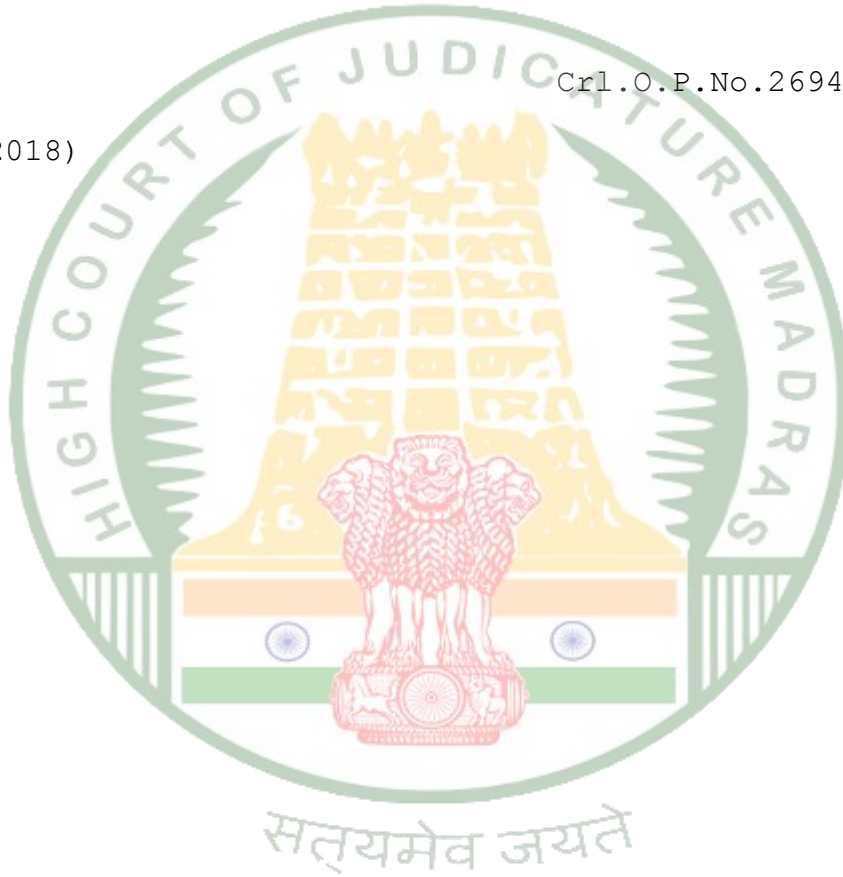
1. The Inspector of Police,
Kallakurichi Police Station,
Villipuram District.

2.The Government Advocate,
High Court, Madras.

1 cc to Mr.K.C.Karl Marx, Advocate Sr.81058(28.11.2018)

(CS-DR)
EU(27/11/2018)

Cr1.O.P.No.26940 of 2018



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