

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:30.11.2018

CORAM:
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P.No.27968 of 2018

Vijayakumar

.. Petitioner

Vs.

State Represented by
Deputy Superintendent of Police,
Panruti Sub Division,
Cuddalore District.

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to declare that the acquittal of the petitioner in Sessions Case No.202 of 2013 on the file of the Learned Court of Sessions, Cuddalore dated 07.03.2015 is held to be "Honourable Acquittal".

For Petitioner : Mr.N.Suresh

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for declaring the judgment of acquittal passed in favour of the petitioner by the Sessions Court, Cuddalore, to be an "Honourable Acquittal".

2.It is seen from the records that the petitioner faced trial before the Court below for an offence under Sections 147, 341, 294(b), 323, 506(ii) of I.P.C. and 3(1)(X) of SC and ST Act, 1989,

3.The petitioner was arrayed as A7 in this case. There were totally 12 witnesses in this case. However, P.Ws.1 to 5 turned hostile. The Court below was not able to find any materials, produced by the prosecution, to convict this petitioner for the above said offences.

4.The Court below, after analysing the entire evidence and the list of Exhibits and material objects that were marked on the side of the prosecution, has come to a categorical finding that the prosecution has miserably failed to establish the guilt of the accused persons. However, the Court has also recorded that benefit of doubt is being given to the accused persons.

5.The learned counsel for the petitioner would submit that both the findings will not go together. Either the Court below should have stated that the prosecution has failed to establish the case or the Court below should have stated that with the available materials, the benefit of doubt is being given to the accused persons. Therefore, the learned counsel would submit that once, the Court below has given a categorical finding that the prosecution has miserably failed to establish the guilt of the accused persons, it must be taken to be an honourable acquittal.

6.The learned counsel for the petitioner also brought to the notice of this Court the earlier order passed by this Court in this regard in Crl.O.P. No.8860 of 2018, dated 22.03.2018 and Crl.O.P. No.25822 of 2018, dated 08.11.2018.

7.This Court has carefully considered the submissions made on either side. It is seen from the records the Court below has given categorical finding that the prosecution has miserably failed to establish the guilt of the accused and also the involvement of the accused persons in the case. Therefore, this finding must only lead to a honourable acquittal and it cannot be an acquittal on the ground of benefit of doubt.

8.In view of the above, the acquittal of the petitioner in S.C. No.202 of 2013 on the file of the learned Court of Sessions, Cuddalore, dated 07.05.2015, is hereby held to be a honourable acquittal. This Criminal Original Petition is allowed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsg1/ia

To

1.The Court of Sessions, Cuddalore.

2.The Deputy Superintendent of Police,
Panruti Sub Division, Cuddalore District.

3.The Public Prosecutor,
High Court of Madras, Madras.

+1cc to Mr.N.Suresh, Advocate, S.R.No.82821

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rrs 05/12/2018