

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 18.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.29623 of 2018

C.Surendhar

... Petitioner

Vs.

The State represented by,
The Sub-Inspector of Police,
Punrutti Police Station,
Cuddalore District.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to declare the acquittal of the petitioner in C.C.No.59 of 2012 rendered by the learned Judicial Magistrate No.I, Punrutti dated 09.02.2016 as a Honourable Acquittal.

For Petitioner : Mr.G.Bala and Daisy

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

ORDER

This petition has been filed seeking to declare the acquittal of the petitioner in C.C.No.59 of 2012, rendered by the Judicial Magistrate No.1, Panrutti on 09.02.2016, to be an Honourable acquittal.

2.It is seen from the records that a case was registered against the petitioner and two others, by the respondent police for an alleged offence under Sections 294(b), 332 and 506(ii) of IPC. After the completion of the investigation, the respondents police lodged a final report before the concerned Court and charges were also framed against the petitioner and two others. Thereafter, the petitioner also underwent trial for the above said offence.

3.It is seen from the judgment of the trial Court that P.W.1, who was the complainant, had died during the pendency of

the proceedings. P.Ws.2 and 3, who were cited as eye witnesses contradicted each other and therefore, the Court below disbelieved the evidence given by them. P.Ws.3 and 4 are only Mahzar witnesses and they do not speak anything about the incident. P.W.5 is the Doctor, who is said to have given treatment to the defacto complainant. He states in his evidence that the defacto complainant was given treatment as an out patient and the defacto complainant did not speak anything about the incident to the Doctor. P.W.6 is the Investigating Officer. While analysing his evidence, the Court below has found that he had registered FIR nearly after one month from the date of incident. This delay was also not properly explained. Therefore, the Court below found that the prosecution miserably failed to make out a case against the petitioner and others, beyond reasonable doubts.

4.The learned counsel for the petitioner would submit that after such a finding in favour of the petitioner, the petitioner ought to have been acquitted honourably, and it cannot be taken as an acquittal by giving the benefit of doubt. The learned counsel for the petitioner also relied upon the order passed by this Court in a similar case in Crl.O.P.No.8860 of 2018 dated 22.03.2018. This Court under similar circumstances had held that the judgment of acquittal was passed after appreciation of the evidence on record, and therefore, this Court had come to a conclusion that acquittal can only be treated as a honourable acquittal.

5.This Court has carefully considered the materials available on record and also the submission made by the learned counsel for the petitioner and the learned Additional Public Prosecutor.

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, the P.Ws.1 and 2 gave a different version about the incident. P.Ws.3 and 4 who are Mahazar witnesses did not speak about the incident and P.W.5, Doctor categorically states that the defacto complainant did not say anything about the incident. P.W.6, the Investigating Officer was not able to explain before the Court the inordinate delay in registering the FIR. The trial Court had examined all the witnesses and had given a categorical finding that the prosecution has not made out a case against the petitioner and two others, beyond reasonable doubts.

7.This Court has considered similar issues in Crl.O.P.No.8860 of 2018 dated 22.03.2018 and Crl.O.P.No.25822 of 2018 dated 08.11.2018 and has held that the acquittal of this nature to be an honourable acquittal.

8.In view of the above, the acquittal of the petitioner in C.C.No.59 of 2012 on the file of the learned Judicial Magistrate No.I, Panrutti, dated 09.02.2016 is hereby held to be an honourable acquittal. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.I,
Punrutti.
 - 2.Do-Thro the Chief Judicial Magistrate,
Cuddalore District.
 3. The Sub-Inspector of Police,
Punrutti Police Station,
Cuddalore District.
 - 4.The Public Prosecutor,
High Court,
Madras.
- +lcc to Mr.G.Bala & Daisy, Advocate, S.R.No.88033

Crl.O.P.No.29623 of 2018

KJI (CO)
GSP(04/01/2019)

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