

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.30258 of 2018

S.Senthilkumar

...petitioner

..Vs..

1.The State represented by
Sub-Inspector of Police,
Sooramangalam Police Station,
Salem District.

2.Commissioner of Police,
City Police Station,
Salem City

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to declare the acquittal of the petitioner in C.C.No.256/2005 rendered by the learned Judicial Magistrate No.2, Salem dated 28.10.2009 as a Hon'ble Acquittal.

For Petitioner : Mr.G.Bala and Daisy

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

ORDER

This Criminal Original Petition has been filed seeking to declare the acquittal of the petitioner in C.C.No.256/2005 rendered by the learned Judicial Magistrate No.2, Salem dated 28.10.2009 as a Hon'ble Acquittal.

2.it is seen from records that a case was registered against the petitioner by the respondent police for an alleged offences under Section 147, 325, 323 and 506 (ii) r/w.149 of IPC. After completion of the investigation, the respondent police laid a Final Report before the concerned Court and charges were framed against the petitioner. Thereafter, the petitioner underwent trial for the above said offence.

3.it is seen from the judgement of the Trial Court that PW 1 to 5 who were examined on the side of the prosecution have turned hostile and the only evidence that was available before the Court was the evidence of the investigating Officer who was

examined as PW-6. The Trial Court has given a categorical finding that the evidence of PW1 to PW5 have not supported the case of the prosecution and the prosecution has not made out their case beyond reasonable doubt only based on the evidence given by PW.6. Therefore, the Trial Court has come to a categorical conclusion that the prosecution has not proved the case beyond reasonable doubt against the petitioner.

4.The learned counsel for the petitioner would submit that after such a finding has been rendered 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 CrI.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 Hon'ble acquittal.

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

6.This Court is of the considered view that there were totally five witnesses examined on the side of the prosecution and none of them supported the case of the prosecution. The only other evidence that was available was that of the Investigating Officer who was examined as PW-6. The Trial Court on examination of the evidence, had given a categorical finding that the prosecution has not made out a case against the petitioner beyond reasonable doubts.

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

8.In view of the above, the acquittal of the petitioner in C.C.No.256 of 2005, on the file of the learned Judicial Magistrate No.II, Salem dated 28.10.2009, is hereby held to be "Hon'ble acquittal".

9.Accordingly, the Criminal Original Petition is disposed of. No costs.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

tta

To

1.The Judicial Magistrate No.2, Salem

2.The Commissioner of Police,
City Police Station,
Salem City

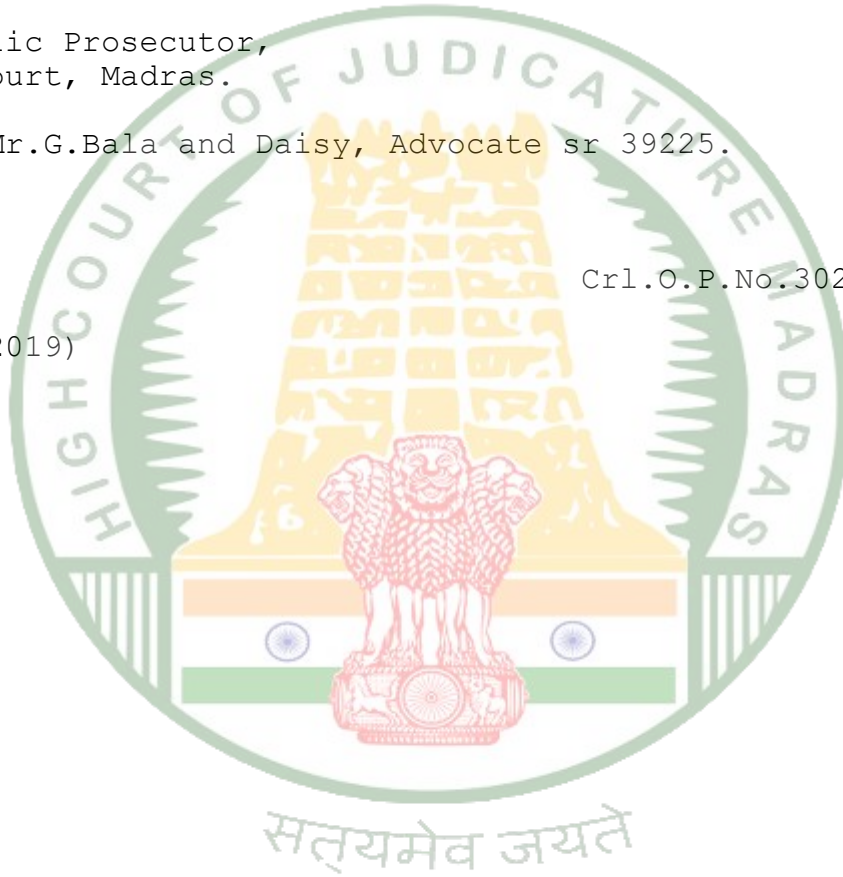
3.The Sub-Inspector of Police,
Sooramangalam Police Station,
Salem District.

4.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.G.Bala and Daisy, Advocate sr 39225.

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SP(10/01/2019)



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