



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRIMINAL APPEAL(MD)No.117 of 2014

M.Shenbagam : Appellant / Complainant

Vs.

1.K.P.S.Monoharan

2.M.Sankaran

3.Palanivel

4.A.Ramasubramanian

: Respondents/Accused Nos.1 to 4

PRAYER : Criminal Appeal is filed under Section 372 of the Code of Criminal Procedure, to set aside the judgment passed by the learned Judicial Magistrate No.II, Madurai in C.C.No.228 of 2005 dated 18.08.2009.

For Appellant : Mr.C.Christopher

For Respondents: Mr.N.Anandakumar

JUDGMENT

This criminal appeal is preferred against the order of the acquittal by the trial Court.

2.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

3.The brief facts of the case is that during 1994-1999 the appellant herein had business transaction with the respondents namely supply of yarn for his spinning mill. It so happened that the material supplied by the respondents herein were all substandard quality. Therefore, the appellant herein was not in a position to produce quality materials, which has created loss to him. When he questioned about the same, the respondents herein, not only threatened him, but, later for non-payment of due, obtained signature in blank papers and handloom units of 25 numbers were forcibly taken away from the premises. Based on this averments, the complaint under Sections 380, 406, 409, 420, 451, 468, 471 and 506 (2) IPC, was lodged against the respondents. Since the police has not taken cognizance on this, after a delay of four years the private complaint was lodged. The trial Court after examining the witnesses, had found the respondents not guilty of the alleged offences. Aggrieved by that, the present criminal appeal has been filed.



4. On perusal of the records, this Court finds that the finding of the trial Court is reasonable, justifiable and in accordance with law. The reason for the delay in filing the complaint itself is not convincing. Further more the deposition of the witnesses also does not inspire the confidence of the trial Court. The view recorded by the trial Court is a possible view. When two views are possible, one view in favour of the accused is recorded by the trial Court and acquitted the accused. In an appeal, though alternate view may also be possible, such a view cannot be put into force, which will be detrimental to the accused. For the such reasons, this Court is not inclined to entertain this criminal appeal.

5. Hence, this Criminal Appeal is dismissed, confirming the judgment of acquittal dated 18.08.2009 made in C.C.No.228 of 2005 on the file of the learned Judicial Magistrate No.II, Madurai.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-I)

cp

To

1. The Judicial Magistrate No.II, Madurai.

2. The Section Officer,
Crl. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Christopher, Advocate in SR No.82254
+1cc to Mr.N.Ananda Kumar, Advocate in SR No.82086

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NM/RSK/SAR 1/03.10.18/2P/6C