

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 10.01.2018****CORAM:****WEB COPY****THE HONOURABLE MR.JUSTICE P.N.PRAKASH****Crl.O.P. (MD) No.14924 of 2017****in****Crl.A. (MD) SR.No.29548 of 2017****and****Crl.A. (MD) SR.No.29548 of 2017**

Senthilkumar

: Petitioner/Appellant

Vs.

1.State Rep. by the
Deputy Superintendent of Police,
Thiruvaiyaru Sub Division,
Thanjavur District.
(F.I.R. in Crime No.222 of 2010
on the file of the Thirukattu Palli PS)

2.Saravanan
3.Vaiyapuri
4.Ramadass
5.Natarajan

: Respondents/Respondents

Prayer in Crl.O.P. (MD) No.14924 of 2017:- Petition is filed under Section 378(3) of the Code of Criminal Procedure to grant special leave to prefer appeal against the judgment of acquittal passed in S.S.C.No.76 of 2011 on the file of the learned First Additional District and Sessions Judge (PCR), Thanjavur, Thanjavur District, dated 16.08.2017.

Prayer in Crl.A. (MD) SR.No.29548 of 2017:- Appeal is filed under Section 372 Proviso of the Code of Criminal Procedure to call for the records in S.S.C.No.76 of 2011 on the file of the learned First Additional District and Sessions Judge (PCR), Thanjavur, Thanjavur District and set aside the judgment dated 16.08.2017 and punish the respondents 2 to 5/Accused Nos.1 to 4 in accordance with law.

For Petitioner : Mr.A.Thiruvadi Kumar
For Respondent No.1 : Mr.M.Asokan,
Government Advocate (Crl.side)
For Respondents 2to5 : No Appearance

**O R D E R**

On the complaint lodged by the petitioner that the accused had abused him by his caste name and threatened him, the respondent police registered a case in Crime No.222 of 2010 under Sections 294 (b), 506(i) of the Indian Penal Code and Section 3(1)(x) of SC/ST (POA) Act and after completing the investigation, filed a charge sheet, which was taken on file as Special S.C.No.76 of 2011 by the learned First Additional District and Sessions Judge (PCR), Thanjavur against four accused. The complainant was not satisfied with process being issued to four accused and instead, he insisted that one Jayakodi, the wife of Saravanan (A-1) has to be impleaded as an accused and, therefore, he filed an application before the High Court in CrI.O.P.(MD)No.10094 of 2013, which was dismissed. However, though summons were issued to the complainant for giving evidence, he appeared before the Trial Court and insisted that Jayakodi should have to be made as an accused and only then, he would give evidence in the witness box. Despite several opportunities for the complainant to get into the witness box, he did not. Therefore, the Trial Court proceeded to examine other witnesses and by judgment dated 16.08.2017, acquitted the accused, aggrieved by which, the complainant has filed the present appeal against acquittal with Special Leave Petition.

2. It is trite that grant of special leave is not automatic and only if the Court is satisfied that there are prima facie materials to show that the acquittal has been on perverse reasoning, can special leave be granted. In this case, the Trial Court has given several opportunities for the complainant to get into the witness box, but, on account of the supine indifference, he did not give evidence. The High Court has dismissed his application to include Jayakodi as an accused. Therefore, the Trial Court could not have included Jayakodi, but, however, had the complainant got into the witness box and spoken about the involvement of Jayakodi, then there would have been every possibility to have impleaded Jayakodi under Section 319 of the Code of Criminal Procedure. 12 witnesses were examined on behalf of the prosecution and 15 exhibits were marked. The Trial Court has considered all these aspects and has acquitted the accused. In such view of the matter, this Court does not find any serious infirmity or perversity in the order of acquittal warranting grant of leave to file appeal.

3. In the result, the Leave Application is dismissed. Consequently, the connected CrI.A.(MD)SR.No.29548 of 2017 stands rejected.

Sd/-

Assistant Registrar (W)

/True Copy/



- 1.The First Additional District and
Sessions Judge (PCR), Thanjavur,
Thanjavur District.
- 2.The Deputy Superintendent of Police,
Thiruvaiyaru Sub Division,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Common Order made in

Cr1.O.P. (MD) No.14924 of 2017
in
Cr1.A. (MD) SR.No.29548 of 2017
and
Cr1.A. (MD) SR.No.29548 of 2017

10.01.2018

SML

SDS/MR/SAR 4/24.01.2018/3P/4C