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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.07.2018

DELIVERED ON : 01.08.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD) No.591 of 2017

Balakrishnan

... Petitioner/Appellant/
Complainant
vs.

1. Gopal Dass,
Forest Ranger,
Forest Ranger Office,
Thirukurunkudi.
2. R.Ramachandran,
Forester,
Thirukurunkudi Division,
Forest Range Office,
Thirukurunkudi.
3. M.Abdul Kadar,
Forester,
Thirukurunkudi Division,
Forest Range Office,
Thirukurunkudi.
4. R.Chellappa,
Forest Guard,
Thirukurunkudi Division,
Forest Range Office,
Thirukurunkudi.
5. V.Kasi Pandian
Forest Watcher,
Thirukurunkudi Division,
Forest Range Office,
Thirukurunkudi.
6. S.Vellaithurai,
Forest Watcher,
Thirukurunkudi Division,
Forest Range Office,
Thirukurunkudi.



7. R.Rajalingam,
S/o. Ramavadivu Nadar,
Village Administrative Officer,
Mavadi,
Naguneri Taluk,
Tirunelveli District.

... Respondents/Respondents/
Accused Nos.2 to 8

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to set aside the order passed in C.A.No.93 of 2015, dated 07.10.16 on the file of the III Additional Sessions Judge, Tirunelveli by confirming the acquittal order passed in C.C.No.13 of 1999 on the file of the learned Judicial Magistrate, Valliyoor dated 07.04.2015.

For Petitioner	: Mr.K.Vinayagan
For Respondents 1 to 6	: Mr.M.S.Suresh Kumar
For 7 th Respondent	: Mr.V.Sasikumar

ORDER

Heard Mr.K.Vinayagan, learned counsel appearing for the petitioner, Mr.S.Suresh Kumar, learned counsel appearing for the respondents 1 to 6 and Mr.V.Sasikumar, learned counsel appearing for the seventh respondent.

2.This petition has been filed to set aside the order passed in C.A.No.93 of 2015 dated 07.10.16 on the file of the III Additional Sessions Judge, Tirunelveli by confirming the acquittal order passed in C.C.No.13 of 1999 on the file of the learned Judicial Magistrate, Valliyoor dated 07.07.2015.

3.The petitioner is the defacto complainant and the petitioner filed a private complaint against the respondents stating that the respondents gave false evidence in C.C.129 of 1991. A case was filed against the petitioner as if teakwood were seized from the agricultural land of the petitioner and that the case was registered in C.C.No.129 of 1991. The trial Court acquitted the petitioner. In that case, the respondents have given evidence as if there is an Odai on the northern, southern and eastern side of the land. The petitioner filed a private complaint against the respondents in C.C.NO.1 of 1994 and transferred to the learned Judicial Magistrate, Valliyoor and numbered as C.C.No.13 of 1999 for malicious prosecution and for giving false evidence before the Court. The trial Court after the trial, acquitted A1 to A8. Against the order of the acquittal, the petitioner filed an appeal in C.A.No.93 of 2015 before the learned III Additional Sessions Judge, Tirunelveli. After hearing both sides, the first Appellate Court dismissed the appeal.



4. On the side of the petitioner, it is stated that the respondents are Government Officials and they harass the petitioner by filing false case and they prepared forged documents with the false evidence as if there was Odai. The lower Court has dismissed the private complaint merely on the basis that the petitioner has not narrated these things at the time of his remand and at the time of filing the bail application itself.

5. On the side of the respondents, it is stated that the respondents found that the petitioner is having possession of teak wood, which is a scheduled timber. The seventh respondent is the complainant and the respondents 1 to 6 are Forest Officers and the teak wood was found in Survey No.474 which belongs to the accused. The teak wood was seized by the Forest Officers. The petitioner was charged for the offences of having possession of scheduled Timber without prior sanction of the Forest Officer. It is stated that one Periyasamy, a Forest Officer has already dead and the respondents 1 to 6 are retired Officers and are aged about more than 60 years old. Further the allegation against the petitioner is that they gave false statements that there is a odai near the petitioner's land.

6. On the side of the respondents, it is stated that if the petitioner finds fault with these respondents, he has to approach the District Forest Officer or the District Collector concerned. Moreover, the petitioner has filed a suit for damages against the respondents claiming a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation for malicious prosecution. The suit was dismissed finding no merits in the suit. It is further stated that the place is near a mountain area and during rainy season, there used to be small streams here and there. The petitioner has not filed any appeal against the Judgment of the civil Court. The petitioner approached this Court after two years from the date of Judgment. So this appeal is time bared and prayed that the petition is to be dismissed.

7. The learned counsel appearing for the respondents relied on the Judgment passed by the Andhra Pradesh High Court in the case of **G.Suryanarayana Raju v. State** reported in **1987 CRL. L.J. 118**, which reads as follows:

" Prosecution for giving false evidence - Essential ingredients to be satisfied - Judgment stating that it is unsafe to rely upon evidence of witness as it is not supported by evidence of mediators - Discrepancy of evidence of mediators was confined only to sites of preparation of Panchnama - witnesses cannot be attributed with fabricating false evidence much less giving false evidence."



8. The learned counsel appearing for the respondents relied on the Judgment passed by the Hon'ble Supreme Court in the case of **Jagdish Murav v. State of U.P. And Others** reported in **(2006) 2 MLJ (CRL.) 1251**, which reads as follows:

WEB COPY "If two views are possible the Appellate Court will not interfere with the order of acquittal - the High Court erred in setting aside the acquittal"

9. Records perused. The respondents 1 to 6 filed a case against the petitioner for having possession of teak wood which is a scheduled timber. Section 45 of the Forest Act empowers the Forest Officials to seize the teak wood and to take action against the concerned person. The petitioner was acquitted by the lower Court in C.C.No.129 of 1991 and in the evidence of the respondents, it is stated that there is some Odai (stream) near the petitioner's land whereas the Village Administrative Officer has denied the presence of any Odai therein.

10. On the side of the respondents, it is stated that the occurrence place is near the foot hills of a mountain. During rainy season, there used to be small streams here and there. The Village Administrative Officer has given FMB Sketch and no Odai is specified in the revenue records. Since the concerned land is just 1 ½ kms from the Forest area and since P.W.2 has given evidence that during the rainy season, there is used to be small streams in that area, the lower Court has acquitted the respondents. The allegation against the petitioner in that case is that the petitioner is having possession of teak wood and whether there is Odai near the petitioner's land or not is immaterial for deciding the case. The petitioner filed the case against the respondents for giving false evidence before the Court. The petitioner has filed the suit claiming a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation for damages for malicious prosecution and the suit was dismissed by the lower Court. This statement was not denied by the petitioner. The petitioner has not filed any appeal against the dismissal of the suit claiming compensation for malicious prosecution. Only after a lapse of two years, the petitioner has come forward with this petition.

11. The above said Judgments are squarely applicable to this facts of the case. In this circumstance, there is no sufficient reason to interfere with the order passed by the lower Court. This Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar (CS-IV)



1.The III Additional Sessions Judge, Tirunelveli.

2.The Judicial Magistrate, Valliyoor.

+1cc to Mr.S.Suresh Kumar, Advocate Sr.No.76112

+1cc to Mr.V.Sasikumar, Advocate Sr.No.76658

MRN

VB/KAK/SAR4/14.08.2018/5P/5C

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