

IN THE HIGH Court OF JUDICATURE AT MADRAS

RESERVED ON: 30.07.2019

PRONOUNCED ON: 22.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.778 of 2010

State by Inspector of Police

Chromepet Police Station, Chennai

..Appellant

Jayakumar

Vs.

..Respondent/accused

Prayer:- This Criminal Appeal is filed, against the judgement of acquittal, dated 23.03.2010, made in SC.No.335 of 2007, by the Mahila Court, Chengalpet.

For Appellant : Mr.K.Prabakar, APP

For Respondent : Mr.V.Gopinath, SC for Mr.K.L.Sekar

JUDGEMENT

- 1.This Criminal Appeal is filed by the State, against the judgement of acquittal, dated 23.03.2010, made in SC.No.335 of 2007, by the Mahila Court, Chengalpet, acquitting the Respondent/ accused for the offences under Sections 450 and 307 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.
- 2.The Respondent/ accused was charge sheeted for the offences under Sections 450 and 307 of IPC, alleging that when the accused was working as a Fire Officer, Fire Service Training Center, Chromepet, due to his bad conduct, he was suspended by PW.1, Priya Ravichandran, Deputy Director of Fire Service Training Centre and that due to previous animosity, on 26.07.2007 at 10.30 a.m., the accused, with an intention to murder PW.1, had entered into the Office of the Deputy Director of Fire Service Training Centre, closed the door, locked inside and strangled her neck and when he tried to stab her chest with a knife, she prevented the same and thereby, she sustained stab injury on her left hand and thereby, the accused had committed the offences punishable under Sections 450 and 307 of IPC.
- 3.The case was taken on file in SC.No.335 of 2007, by the Mahila Court, Chengalpet and charges were framed under Sections 307

and 450 of IPC and Section 4 of the Tamil Nadu Women Harassment Act. The accused had denied the charges and sought for trial. In order to bring home the charges against the accused, the Prosecution examined PW.1 to PW.10 and also marked Exs.P1 to P15 and Ex.C1 and Ex.C2 were marked. On completion of the evidence on the side of the prosecution, the accused was questioned under Section 313 Cr.PC as to the incriminating circumstances found in the evidence of prosecution witnesses and the accused has come with the version of total denial and stated that he has been falsely implicated in this case. On the side of the defence, DW.1 and DW.2 were examined.

- 4.The Trial Court, after hearing the arguments advanced on either side and also looking into the materials available on record, had acquitted the accused for the offences under Sections 307 and 450 of IPC and Section 4 of the Tamil Nadu Women Harassment Act, which is challenged in this Criminal Appeal by the State.
- 5.This Court heard the learned counsel on either side.
- 6.The learned Additional Public Prosecutor for the Appellant/State would submit that though the evidence of PW.1 is cogent and corroborated by the evidence of the other witnesses, the Trial Court, on wrong appreciation of facts and law and also taking into consideration the minor contradictions and also placing reliance on the evidence of DW.1, Photographer, had erroneously acquitted the Respondent/accused and that though PW.1 has deposed about the incident and her evidence having been corroborated by PW.2 to PW.5, the Trial Court erred in acquitting the accused. He would further submit that the injuries sustained by PW.1 has been corroborated by examination of PW.6 and PW.7, Doctors and that the impugned judgement of the Trial Court, in acquitting the Respondent/accused is against law, weight of evidence and probabilities of the case and would seek for setting aside the impugned judgement of acquittal of the Respondent/accused.
- 7.On the other hand, the learned senior counsel for the Respondent/accused would submit that the Trial Court had, after threadbare analysing the evidence, both oral and documentary, come to the conclusion that the case had been fabricated and foisted falsely, on the Respondent/accused due to the influence wielded by PW.1, who is his Superior Officer, in the Fire Service Department and that the Trial Court, after carefully analysing the evidence let in on the side of the Prosecution and after seeing the demeanour of the witnesses, had rightly acquitted the Respondent/accused. He would further submit that the Trial Court had acquitted the Respondent/accused, giving the benefit of doubt and disbelieving the evidence of the witnesses of the Prosecution and that reversal of the acquittal can be permissible only if the conclusion

recorded by the Trial Court does not reflect any reasonable and possible view, whereas, the Trial Court disbelieving the evidence of the Prosecution, took a possible and reasonable view and acquitted the Respondent/ accused.

8. The learned senior counsel for the Respondent/ accused would further submit that the Trial Court has also taken into consideration the evidence of DW.1 and DW.2, with regard to the fact that the Respondent/ accused was beaten up by others and that he was tied to the pole in the scene of occurrence and that there was no explanation in respect of the injuries suffered by the Respondent/ accused and that the Trial Court, taking into consideration the serious contradictions with regard to the arrest and recovery of the weapon and the evidence of DW.1 and DW.2, supported and corroborated by the evidence of PW.2, had rightly acquitted the Respondent/ accused.
9. The learned senior counsel for the Respondent/ accused would further submit that it is the evidence of PW.2 to PW.5 that they broke open the door and that while they broke open the door, latch was also broken, whereas no recovery had been made with regard to latch and that the Trial Court, disbelieving the evidence of PW.6 and PW.7, Doctors, had found that the documents have been fabricated to suit the Prosecution and that there are no infirmities in the impugned judgement of acquittal, which warrants no interference by this Court.
10. I have given my careful and anxious consideration to the rival contentions put forward by either side and thoroughly scanned through the entire evidence available on record and also perused the impugned judgement of conviction.
11. At the outset, before venturing into analysis and assessment of the entire evidence available on record and in order to appraise the reasons assigned by the Trial Court, for acquitting the Respondent/accused herein, it is relevant to refer to a few decisions of the Honourable Supreme Court, in respect of the power of this Court to interfere with an appeal filed against the judgement of acquittal.
12. In 2019 4 SCC 739 (Sampat Babso Kale and another Vs. State of Maharashtra), it was held in paragraph 8 as under:-

"8. With regard to the powers of an appellate court in an appeal against acquittal, the law is well established that the presumption of innocence which is attached to every accused person gets strengthened when such an accused is acquitted by the trial court and the High Court should not lightly interfere with the decision of the trial court which has recorded the evidence and observed the demeanour of witnesses. This Court in Chandrappa v. State of Karnataka [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325]

, laid down the following principles: (SCC p. 432, para 42)

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

13. In 2010 2 LW CrL. 1042 (Babu Vs. State of Kerala), the Honourable Supreme Court, after quoting its earlier decisions, had held as under:-

"7. This Court time and again has laid down the

guidelines for the High Court to interfere with the judgement and order of acquittal passed by the trial Court. The appellate Court should not ordinarily set aside a judgement of acquittal in a case where two views are possible, though the view of the appellate Court may be the more probable one. While dealing with a judgement of acquittal, the appellate Court has to consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial Court were perverse or otherwise unsustainable. The appellate Court is entitled to consider whether in arriving at a finding of fact, the trial Court had failed to take into consideration admissible evidence and/or had taken into consideration the evidence brought on record contrary to law. Similarly, wrong placing of burden of proof may also be a subject-matter of scrutiny by the appellate Court."

8. In AIR 1934 PC 227 (Sheo Swarup v. King Emperor the Privy Council), it was observed as under:-

"... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate Court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses."

9. The aforesaid principle of law has consistently been followed by this Court, in its decision in Tulsiram Kanu v. State (AIR 1954 SC 1), Balbir Singh v. State of Punjab (AIR 1957 SC 216), M.G. Agarwal v. State of Maharashtra (AIR 1963 SC 200), Khedu Mohton v. State of Bihar (AIR 1970 SC 66), Sambasivan v. State of Kerala (1998) 5 SCC 412, Bhagwan Singh v. State of M.P. (2002) 4 SCC 85 and State of Goa v. Sanjay Thakran and Anr. (2007) 3 SCC 755).

11. In Ghurey Lal v. State of U.P. (2008) 10 SCC 450 this Court reiterated the said view, observing that the appellate Court in dealing with the cases in which the trial Courts have acquitted the accused, should bear in mind that the trial Court's acquittal bolsters the presumption that he is innocent. The appellate Court

must give due weight and consideration to the decision of the trial Court as the trial Court had the distinct advantage of watching the demeanour of the witnesses, and was in a better position to evaluate the credibility of the witnesses.

12. In *State of Rajasthan v. Naresh @ Ram Naresh* (2009) 9 SCC 368, the Court again examined the earlier judgements of this Court and laid down that:

"20. ... an order of acquittal should not be lightly interfered with even if the Court believes that there is some evidence pointing out the finger towards the accused."

15. Thus, the law on the issue can be summarised to the effect that in exceptional cases where there are compelling circumstances, and the judgement under appeal is found to be perverse, the appellate Court can interfere with the order of acquittal. The appellate Court should bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference."

14. In 2006 AIR SCW 177:2006 (3) SCC (Cri) 546 (*Kallu alias Masih & Others v. The State of Madhya Pradesh*), the Honourable Supreme Court had held hereunder:-

"While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate Court, where the judgement of the trial Court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial Court merely because a different view is possible. The appellate Court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial Court."

15. In 2005 (9) SCC 291 (*State of Karnataka v. K. Gopalakrishna*), the Honourable Supreme Court had observed as follows:-

"17. ... In such an appeal the appellate Court does not lightly disturb the findings of fact recorded by the Court below. If on the basis of the same evidence, two views are reasonably possible, and the view favouring the accused is accepted by the Court below, that is sufficient for upholding the order of acquittal. However, if the appellate Court comes to the conclusion that the findings of the Court below are wholly unreasonable or perverse and not based on the evidence on record, or suffer from serious illegality including ignorance or misreading of evidence on record, the appellate Court will be justified in setting aside such an order of acquittal. ..."

16. In 2014 CrI.LJ 3975 (C.K.Dasegowda and others Vs. State of Karnataka), relying on the decision reported in 2007 4 SCC 415 (Chandrappa Vs. State of Karnataka) and reiterating the legal position enumerated therein, the Honourable Supreme Court had held that the High Court erred in setting aside the order of acquittal of the Appellants, in the absence of any legal and factual evidence on record to prove the findings and reasons recorded in the judgement of the Trial Court as perverse and that the contentions urged on behalf of the Appellants are well founded as the same are in conformity with the legal principles laid down in the aforesaid cases.

17. In 2012 10 SCC 383 (Murugesan and others Vs. State), while interpreting the meaning and implication of "possible view" distinguished from "erroneous view" or "wrong view", in the cases of appeal against acquittal, the Honourable Supreme Court had held as under:-

"32. In the above facts can it be said that the view taken by the trial court is not a possible view? If the answer is in the affirmative, the jurisdiction of the High Court to interfere with the acquittal of the appellant-accused, on the principles of law referred to earlier, ought not to have been exercised. In other words, the reversal of the acquittal could have been made by the High Court only if the conclusions recorded by the learned trial court did not reflect a possible view. It must be emphasised that the inhibition to interfere must be perceived only in a situation where the view taken by the trial court is not a possible view. The use of the expression "possible view" is conscious and not without good reasons. The said expression is in contradistinction to expressions such as "erroneous view" or "wrong view" which, at first blush, may seem to convey a similar meaning though a fine and subtle difference would be clearly discernible.

33. The expressions "erroneous", "wrong" and "possible" are defined in Oxford English Dictionary in the following terms:

"erroneous.— wrong; incorrect.

wrong.—(1) not correct or true, mistaken.

(2) unjust, dishonest, or immoral.

possible.—(1) capable of existing, happening, or being achieved.

(2) that may exist or happen, but that is not certain or probable."

34. It will be necessary for us to emphasise that a possible view denotes an opinion which can exist or be formed irrespective of the correctness or otherwise of such an opinion. A view taken by a court lower in the hierarchical structure may be termed as erroneous or wrong by a superior court upon a mere disagreement. But such a conclusion of the higher court would not take the view rendered by the subordinate court outside the arena of a possible view. The correctness or otherwise of any conclusion reached by a court has to be tested on the basis of what the superior judicial authority perceives to be the correct conclusion. A possible view, on the other hand, denotes a conclusion which can reasonably be arrived at regardless of the fact where it is agreed upon or not by the higher court. The fundamental distinction between the two situations have to be kept in mind. So long as the view taken by the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, the view taken by the trial court cannot be interdicted and that of the High Court supplanted over and above the view of the trial court.

35. A consideration on the basis on which the learned trial court had founded its order of acquittal in the present case clearly reflects a possible view. There may, however, be disagreement on the correctness of the same. But that is not the test. So long as the view taken is not impossible to be arrived at and reasons therefor, relatable to the evidence and materials on record, are disclosed any further scrutiny in exercise of the power under Section 378 CrPC was not called for."

18. In 2010 CrL LJ 433 (Arulvelu and another Vs. State), it was held as below:-

"41. We have re-examined the entire case because of the conflicting judgements of the trial court and the High

Court. On careful marshalling of the entire evidence and the documents on record, we arrive at the conclusion that the view taken by the trial court is a possible and plausible view. The judgement of the trial court cannot be termed as perverse. The High Court ought not to have substituted the same by its own possible view. The impugned judgement of the High Court cannot stand to the scrutiny of the well-settled legal position which has been crystallised for more than eighty years since the case of Sheo Swarup [(1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] . In the facts and circumstances of this case, we are constrained to set aside the impugned judgement of the High Court."

19. Now, coming to the case on hand, keeping in mind the above said principles laid down by the Honourable Supreme Court, regarding interference or non-interference, with the judgement of acquittal, by this Appellate Court, it is to be seen as to whether the Trial Court had given clear, cogent, convincing and categorical reasons for acquitting the Appellant/ accused and whether the Trial Court took a possible, reasonable and justifiable view, for which, it is absolutely necessary to analyse and assess the reasons assigned by the Trial Court for acquitting the Respondent/ accused herein, coupled with the entire evidence, both oral and documentary, on record.
20. In this case, the charges against the Respondent/ accused, herein are that he committed the offences punishable under Sections 450 and 307 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, viz. on 26.07.2007 at 10.30 a.m., the accused, with an intention to murder PW.1, had trespassed into the Office of PW.1, the Deputy Director of Fire Service Training Centre, closed the door, locked inside and strangulated her neck and when he tried to stab her chest with a knife, she prevented the same and thereby, she sustained stab injury on her left hand.
21. In order to bring home the guilt of the Respondent/ accused, the Prosecution had examined PW.1 to PW.10 and also marked Exs.P1 to P15 and Ex.C1 and Ex.C2 were marked. On the side of the Respondent/ accused, DW.1 and DW.2 were examined.
22. Ex.P1 is the complaint dated 26.7.2007 given by PW.1. Ex.P2, Ex.P3 and Ex.P4 are the observation mahazar, mahazar and seizure mahazar, respectively. Ex.P5 is the accident register in respect of PW.1. Ex.P6 is the opinion of the Doctor found in the OP Slip. Ex.P7 is the requisition letter sent to the Court, for examination of the witnesses. Ex.P8 is the order of the Court to examine the witnesses. Ex.P9 is the alteration report. Ex.P10 is the printed First Information Report. Ex.P11 is the rough sketch and Ex.P12 is the Police mahazar. Ex.P14 is the

seizure mahazar. Ex.P15 is the signature of PW.10 in Ex.P13 and Ex.P4. MO.1 is the knife. MO.P2 and MO.P3 are shirt and pant. MO.4 is the TVS Victor Bike, bearing Reg.No.TN 31 D 8574. MO.5 is the nylon rope.

23.PW.1 is the victim, who was said to have assaulted by the Respondent/ accused. She was the Deputy Director (Training), Fire Service Training Centre, Chromepet and was the Superior Officer to the Respondent/ accused herein, who was working as a Fire Officer, under PW.1.

24.PW.2 was the Driver, working in the Fire and Rescue Services Department, Tambaram. PW.3 is the Fireman, Fire and Rescue Services Department, Sanatorium. PW.4 is the Firemen, Fire and Rescue Services Department, Chromepet. PW.5 is the Station Officer, Fire Service Training Centre, Tambaram.

25.PW.6 and PW.7 are Doctors, attached to the Government Hospital, Tambaram. PW.8 is the Inspector of Police, Padalam Police Station. PW.9 is the Inspector of Police (L&O), Kothaval Chavadi, Chennai. PW.10 is a witness, who turned hostile. DW.1 is the Freelance Photographer and DW.2 is wife of the Respondent/ accused.

26.The case of the Prosecution was that even before the alleged occurrence, the Respondent/ accused had trespassed into the office of PW.1 and was hiding inside the bathroom attached to the PW.1's Office and when PW.1 entered into her Office Room and locked inside the room to wear the uniform, the Respondent/ accused came out from the bathroom and committed the alleged offences.

27.The version of the Prosecution was that the victim, who was examined as PW.1, had deposed in clear terms about the incident and that her evidence is corroborated by the evidence of PW.2 to PW.5 and Doctors, PW.6 and PW.7 and hence, Respondent/ accused was to be punished accordingly.

28.Before the Trial Court, it was the defence of the Respondent/ accused that no such occurrence had happened as projected by the Prosecution and that before the occurrence, there was a report published in Kumudam Reporter about the illegal acts by PW.1 and her Superior Officer and it was assumed by PW.1 that the Respondent/ accused was only responsible for publishing such a report against her. Hence, on the date of occurrence, i.e. 26.07.2007 at 6.00 a.m. PW.1 with the help of PW.2, Staff, had brought the Respondent/ accused from his house and assaulted him and caused injuries to him and that the accused was tied to a pole and beaten and at that time, the wife of the Respondent/ accused, DW.2, came there, along with DW.1 Photographer, and took photographs of him, who was tied to a pole and also the injuries sustained by him and hence, fearing that a complaint would be lodged before the Human Rights Commission, the case had been foisted falsely against him. It

was contended that the above circumstances had been proved by the evidence of DW.1 and DW.2 and MO.1, Photographs, marked through DW.1. There are several contradictions and discrepancies in the evidence of the witnesses of the Prosecution.

29. PW.1 had deposed that her Office was surrounded by a compound wall and in two entrances, there are securities available and on the date of occurrence, before she coming to the Office, her office would be opened and cleaned. Hence, it was found by the Trial Court that the Respondent/ accused coming and hiding inside the bathroom, without being noticed by the house keeper, is not believable, inasmuch as if really the accused would have hid in the bathroom, it would have been noticed by the house keeper, while cleaning the bathroom.
30. PW.2, PW.3, PW.4 and PW.5 are the Staff, working in the Office of PW.1. It was also the defence of the accused that their evidence is also contradictory in nature.
31. It was alleged that while escaping and running over the steps, after assaulting PW.1, he fell down and sustained injuries. It is seen from the evidence of PW.1 to PW.5 that on hearing the noise, when they entered into the room of PW.1, by breaking open the door, they saw the accused attempting to stab PW.1 with a knife and at that time, they themselves caught hold of the accused. When such being so, the theory projected by the Prosecution that the accused sustained injuries due to fall on steps while attempting to escape, is suspicious and doubtful.
32. Further, regarding the arrest of the accused, PW.1 to PW.5 have clearly deposed that they caught hold of the accused in the Office of PW.1 itself and handed over him to the Police. But, in the statements recorded under Section 161(3) of Cr.PC, and in the accident register, they had stated that they chased the accused and caught hold of the accused and thereafter, informed about the incident to the Chromepet Police Station. PW.1 has specifically deposed that when the accused attempted to run away, her Staff in the Office caught hold of the accused and kept him under the custody. But, the evidence of the Investigating Officer, PW.9 is contradictory to such evidence, inasmuch as, PW.9, Investigating Officer had deposed that at 13.00 hours, near the Chromepet Bus Stand, he arrested the accused and recorded his statement, in the presence of the same witnesses. In such view of the contradictory evidence, it was rightly held by the Trial Court that the arrest of the accused was also doubtful.
33. Further, according to the evidence of PW.1 to PW.5, PW.1 entered into her Office Room and locked inside the room to wear the uniform and at that time, on hearing the alarm raised by PW.1, PW.2 to PW.5 broke open the door and entered into the

room. But, the Prosecution has failed to recover the broken latch and mark the same to substantiate the said incident. Considering the same, the Trial Court had rightly disbelieved their version.

34. Yet another contradiction is that PW.1 had deposed that the Respondent / accused, by pressing her neck by left hand, had attempted to stab on her chest with a knife. But, the evidence of PW.2 to PW.5 is that the Respondent/ accused was sitting on the floor. Further, according to the Prosecution, the Staff, PW.2 to PW.5 were present, but no documentary evidence, such as, attendance register, was produced and marked to show that they were present at the time of occurrence.
35. Further evidence with regard to the injuries sustained by PW.1 and the treatment taken by her, is also highly doubtful. In this regard, PW.1 had deposed that on the date of occurrence, she never went to the Hospital for treatment and PW.6 Doctor came to her Office and gave treatment. PW.6 Doctor, had deposed that he went to the Office of PW.1 and treated PW.1 and issued Ex.P5 accident register and he was not on duty on the date of occurrence and some other person was on duty. It is a procedure that only on receipt of requisition from the concerned Police and on the basis of OP Chit, treatment would be given. But, when PW.6 was not on duty, treatment given by such a person, that too at the place of occurrence, without any such requisition and OP Chit and without registering the details in the accident register, is doubtful. Hence, the Trial Court had rightly come to the conclusion that the probability of the defence that at the influence of PW.1, documents were fabricated and a case was foisted falsely, against the Respondent/ accused, cannot be ruled out.
36. PW.7, Doctor, had deposed that on 26.07.2007, on examination of X-Rays of PW.1, no fracture was found. But, the evidence of PW.1 in this regard, is contradictory, inasmuch as, PW.1 had deposed that she never gone to the Hospital for treatment on the date of occurrence. Hence, as rightly held by the Trial Court, taking X-Rays of PW.1 on the date of occurrence cannot be believed and that the said witness and the documents were cooked up to suit the case of the Prosecution.
37. In so far as the defence that because PW.1 had a grudge and enmity with the accused because of the report published in the Tamil Magazine, about the illegal acts of PW.1 and her superior Officer, the accused was implicated falsely in the case, is concerned, PW.1 had deposed that such a report was published because of the Respondent/ accused. Hence, it was alleged that such a grudge was a cause for PW.1 to have falsely implicated the accused in the case.
38. The next defence of the accused was that due to such

animosity, he was brought from his house and he was tied to a pole and assaulted by PW.1 and her subordinate Staff, due to which, he had also sustained injuries. In order to substantiate this defence, MO.1 and MO.2 photograph and Negative, were produced and marked. Admittedly, the said photographs were taken inside the Office of PW.1.

39.DW.1 is the photographer, who took the photographs. DW.1 had deposed that the accused was tied to a pole inside the Office, in a sitting position and he took the photographs of the same and on seeing the same, Officials in the upstairs shouted and requested him for taking photographs and asked him to go out from the Office. Considering the said evidence, the Trial Court had rightly held that there was every possibility of a false case being foisted against the Respondent/ accused, fearing that a complaint would be lodged against PW.1 due to her illegal act of assaulting the Respondent/ accused with the aid of her subordinates.

40.The Trial Court had a distinct advantage of seeing the demeanour of the witnesses directly. Unless the conclusions reached by the Trial Court are palpably wrong or based on erroneous view of the law and evidence or if such conclusions are allowed to stand, they are likely to result in grave injustice, this Appellate Court would be fully justified in interfering with such conclusions. Thus, the law on the issue can be summarised to the effect that in exceptional cases where there are compelling circumstances, and the judgement under appeal is found to be perverse, this appellate Court can interfere with the order of acquittal. The appellate Court should bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference.

41.In this case, as analysed above, the Trial Court had, by pointing out to several infirmities and assigning valid and categorical reasons to discard the evidence adduced by the Prosecution, held that the Prosecution had failed to prove any of the offences alleged against the Respondent /accused, by valid and cogent evidence and took a reasonable and possible view of the facts of the case, giving benefit of doubt to the Respondent / accused and as such, this Court finds no justifiable reason to interfere with the impugned judgement of acquittal.

42.A reading of the entire judgement of acquittal clearly shows that the Trial Court has assigned valid and categorical reasons for acquitting the accused and the findings of the Trial Court cannot be stated to be unreasonable or perverse and such findings are based on proper analysis of evidence and the

Trial Court has not committed any error or illegality or misread the evidence available on record warranting the interference of this Court in the impugned judgement of acquittal.

43. In the result, this Criminal Appeal is dismissed, confirming the impugned judgement of acquittal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Judge,
Mahila Court, Chengalpet

2. The Public Prosecutor,
High Court, Madras.

+3 cc to M/s.K.L.Sekar, Advocate Sr.No. 72090

Copy To: The Section Officer, Criminal Section (Records)
High Court of Madras

AKM/25.09.19/14P- 7C /

Judgement in
Crl.A.No.778 of 2010

WEB COPY