

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Revision Case No.797 of 2010
and
Criminal Appeal No.471 of 2010

Crl.R.C.No.797 of 2010

K.S.Hemantha KumarPetitioner
(in Crl.R.C.No.797/2010)

Vs.

1.State of Tamil Nadu,
Rep.by Inspector of Police,
District Crime Branch,
Thiruvellore District,
Thiruvellore (Cr.No.1/07).

2.Audikesavan
3.Pujiammal
4.R.Amsa
5.M.Ganesan
6.M.Perumal
7.G.Shanthi
8.B.Devika
9.Usha

...Respondents
(in Crl.R.C.No.797/2010)

PRAYER: Criminal Revision Case filed under Section 397 and 401 of Cr.P.C., to call for the records in C.C.No.219 of 2008 on the file of the Judicial Magistrate No.2, Ponneri and set aside the order dated 29.04.2010.

For Petitioner : Mr.V.Bhiman

For Respondents : Mr.K.Prabakar
Additional Public Prosecutor for R1
Mr.P.S.Ratnamani for R2 & R3

Crl.A.No.471 of 2010

State of Tamil Nadu,
Rep.by Inspector of Police,
District Crime Branch,
Thiruvellore District,
Thiruvellore (Cr.No.1/07).

... Appellant/Complainant
(in Crl.A.No.471 of 2010)

Vs.

1.Audikesavan
2.Bujjiammal
3.R.Amsa
4.M.Ganesan
5.M.Perumal
6.G.Shanthi
7.R.Devika
8.Usha

... Respondents/Accused (A1 to A8)
(in Crl.A.No.471 of 2010)

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C., to allow this appeal and set aside the judgement of acquittal of the respondents/accused [A-1 to A-8] passed by the Judicial Magistrate Court No.2, Ponneri in C.C.No.219/2008, dated 29.04.2010.

For Appellant : Mr.K.Prabakar
Additional Public Prosecutor

For Respondents : Mr.P.S.Ratnamani for R1 & R2

COMMON ORDER

The revision has been filed by the defacto complainant P.W.1 and the criminal appeal has been filed by the State against the common order passed by the learned Judicial Magistrate No.2, Ponneri in C.C.No.219/2008, dated 29.04.2010, acquitting the accused for the offence under Sections 419, 420, 465, 467, 471 r/w 511 and 120(B) of I.P.C.

2. The learned counsel for the revision petitioner as well as the learned Additional Public Prosecutor would submit that all the offences are triable by the Magistrate and the case is registered during the year 2007 and the trial was concluded and judgment was passed on 29.04.2010. The learned counsel would further submit that after the Amendment to Section 378 of Cr.P.C in view of Cr.P.C (Amendment) Act 2005 which came to effect from 21.6.2006 appeal against the order of acquittal by State as well as the private party is maintainable before the concerned District and Sessions Judge. The learned counsel appearing for

the parties in unison would submit that in view of the judgement of the Full Bench of this Court in the case of S.Ganapathy V.N.Senthilvel reported in 2016(4) CTC 119, the appeal can be referred to the concerned Sessions Court for hearing. The counsel would also submit that the same view has been taken by this Court in Crl.A.No.470 of 2017, dated 12.02.2018 reported in CDJ 2018 MHC 2191.

3. In view of the above both the Criminal Revision Case as well as the Criminal Appeal are disposed of on the following terms :

(i) The Criminal Revision Case and the Criminal Appeal along with connected original petitions and miscellaneous petitions (if any) be transferred to the file of the Principal District and Sessions Court, Tiruvallur.

(ii) On receipt of the transferred cases, the learned Sessions Judge shall renumber the Criminal Revision Case as well as the Criminal Appeal and take up and dispose of both the matters or make over the same to the Additional Sessions Court for disposal, in accordance with law.

(iii) Before taking up the cases for hearing the Sessions Court concerned, shall issue due notices to all the parties for their appearance.

(iv) Since these matters are pending from the year 2010 before this Court, the learned Sessions Judge shall accord priority to these matters and dispose of the same as expeditiously as possible.

4. Registry is directed to send the case bundles in Crl.R.C.No.797/2010 and Crl.A.No.471 of 2010 with all connected records of the trial Court as well as the typed set of papers filed before this Court to the Principal District and Sessions Court, Tiruvallur forthwith.

5. With the above direction Crl.R.C.No.797/2010 and Crl.A.No.471 of 2010 are disposed of.

12.02.2019.

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Being Mentioned

This Matter having been listed under the caption for being mentioned on Monday the Eleventh of March 2019 pursuant to the order dated 12102/2009 and made in in the presence of the abovesaid counsels on the either side the Court made the following order.

Today, this matter has been listed under caption "for being mentioned".

2.The Criminal Revision Case and the Criminal Appeal arise against the acquittal in a criminal case based on police report. Criminal Revision Case has been filed by the defacto complainant and the Criminal Appeal has been preferred by the State.

3.The order of acquittal has been passed on 29.04.2010. It is clarified that the matter may be sent to the Principal District and Sessions Court, Tiruvallur as per the order dated 12.02.2019.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate No.2,
Ponneri.
- 2.-do- thro' The Chief Judicial Magistrate,
Thiruvallur.
- 3.The Principal District Sessions Judge,
Tiruvallur.
- 4.The Inspector of Police,
District Crime Branch,
Thiruvellore District,
Thiruvellore
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.S.Rathmani, Advocate, S.R.No.12400

+1cc to Mr.V.Bhiman, Advocate, S.R.No.12509

Criminal Revision Case No.797 of 2010
and
Criminal Appeal No.471 of 2010

KK(CO)

rrs 26/03/2019