

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

Criminal Revision No.324 of 2012

G.K.Muthukumar

Petitioner

Vs

1. Kumar

2. The State Rep by
Inspector of Police
Sathyamangalam Police Station
Crime No.335 of 2010
Sathyamangalam
Erode District

Respondents

Prayer: Criminal Revision Petition filed under Sections 397 r/w 497 of Cr.P.C. against the Judgment of acquittal dated 06.08.2011 in SC No.84 of 2011 on the file of the Assistant Sessions Court, Sathyamangalam.

For petitioner : Mr. V. Sekar

For respondents : R1 - Mr. I.C. Vasudevan

R2 - Mr. T. Shanmuga Rajeswaran
(Additional Public Prosecutor)

ORDER

This Criminal Revision is preferred against the order of acquittal passed by the Assistant Sessions Court, Sathyamangalam.

2. The case is arising out of police report for offence under Section 436 of IPC. The learned Counsel appearing for the revision petitioner would submit that in the light of the amendment to the code of Criminal procedure, the proviso to Section 372 has been incorporated, wherein, the victim have right to prefer an appeal against any order passed by the Court either acquitting the accused or impose lesser sentence or imposing lesser compensation. Such appeal ordinarily lies in the Court where appeal against the order of conviction passed. Under Section 374 of the Code, appeal from conviction passed by the trial Court either with the Metropolitan Magistrate or Sessions Judge or Magistrate of I Class or II Class Magistrate and the sentence of imprisonment is not more than 7 years, appeal will lie to the Court of Sessions.

3. The learned counsel would further submit that on the combined reading of proviso to Section 372 and 378 of Cr.P.C, the petitioner herein aggrieved by the order of acquittal have right of appeal before the Court of Sessions. But erroneously, this revision has been preferred before the High Court under Section 397 r/w 401 of Cr.P.C.

4. It is brought to the notice of the Court that similar error of jurisdiction has been pointed out in many revision petitions and in a batch of petitions filed before this Court earlier, this Court has directed the registry to transfer those revisions to the respective District Courts for appropriate adjudication.

5. In the light of the above precedent, this Criminal Revision petition is also ordered to be transferred to Principal District Court, Erode. The learned Principal District Judge, Erode shall take the matter on file as appeal and adjudicate the matter in accordance with law, after notice to the respective parties.

6. With the above observations, this Criminal Revision petition is closed. Further, the registry is directed to return the records along with the revision papers forthwith.

सत्यमेव जयते

14.02.2019

Speaking Order / Non-Speaking Order

Index : yes/no

Internet : yes/no

vrn

To

1. The Principal District Judge, Erode

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DR.G.JAYACHANDRAN,J

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