

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.540 of 2018

Yamuna

... Petitioner

Vs

State by,

Inspector of Police,

Kavundapadi Police Station,

Erode District.

(Crime No- 65 of 2013)

... Respondent

PRAYER: Criminal Appeal has been filed under Section 454 of Criminal Procedure Code to order return of jewels, marked as M.O.Nos.7,8,11 and 15 in S.C.No.70 of 2013 dated 09.12.2015 pursuant to the common judgment dated 08.08.2016 passed by this Court in C.A.No.802 of 2015, C.A.No.6 of 2016 and C.A.No.233 of 2016 and the order dated 14.06.2018 passed in C.M.P.No.69 of 2018 by the III Additional District and Sessions Court, Erode at Gobichettipalayam.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.R.Ravichandran

Government Advocate (Criminal Side)

O R D E R

The appellant herein is the third accused, the case was registered by the respondent police against this revision petitioner/ appellant for the offence under Sections 302 r/w 120(b) of IPC and filed a charge sheet against the appellant before the learned III Additional District Judge, Gobichettipalayam, and the same was taken on file in S.C.No.70 of 2013. After trial, the appellant was found guilty, convicted the appellant for the offences under Sections 302 r/w 120(b) of IPC and imposed life sentence and to pay a fine of Rs.5,000/-. As against the said judgment the accused were filed a Criminal Appeal before this court separately in C.A.No.802 of 2015, C.A.No.6 of 2016 and C.A.No.233 of 2016. The Division Bench of this Court has set aside the judgment of the learned III Additional District and Sessions Judge, Erode at Gobichettipalayam, but no order was passed on the material object.

2. Subsequently, the appellant filed a petition under Section 452 of Cr.P.C., before the learned III Additional District and Sessions Judge, Gobi in C.M.P.No.69 of 2018 by referring the judgment of Division Bench of this Court to return the property to the revision petitioner. After enquiry, the learned III Additional District and Sessions Judge, Gobi dismissed the said petition. As against the dismissal order the revision petitioner herein filed a Revision Case before this Court.

3. It is seen that the Criminal Appeals in CrI.A.Nos. 802 of 2015, 06 of 2016 and 233 of 2016 were disposed by the Division Bench of this Court. The Division Bench of this Court dismissed the appeals on the ground that prosecution has failed to prove its case beyond reasonable doubt. However, the Division Bench has not passed any order with regard to return of properties.

4. Further, it is seen that none of the parties challenged the above said judgments before the Hon'ble Supreme Court. The petitioner also did not seek any clarification from the Division Bench. The petitioner approached the Sessions Court/Trial Court invoking the provision under Section 452 of Cr.P.C.,. Since, there is no specific order in the judgments of Division Bench the trial Court dismissed the order. As there is no specific order passed by the Division Bench with regard to return of property against the order of trial Court in S.C.No.70 of 2013. This Court, does not find any reason to interfere with the order passed by the Court below in C.M.P.No.69 of 2018 dated 14.06.2018.

5. In the result the appeal is dismissed.

Sd/--

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

sbn

To

1. III Additional District and Sessions Court,
Gobichettipalayam, Erode.

2. The Principal District and Sessions Court,
Erode

3. The Public Prosecutor,
High Court, Madras.

4.The Inspector of Police,
Kavundapadi Police Station,
Erode District.

5. The section officer,
Criminal Section,
High court
Madras

+lcc to Mr. A.K.Kumarasamy, Advocate SR.No. 22375

Crl.A.No.540 of 2018

GJ (CO)
A.SK(22/04/2019)