

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.NO.8999 OF 2019

P.Rajkumar, P.C.17194

...Petitioner/Accused 9

Vs.

The State rep. by
The Inspector of Police
Mangalam Police Station,
Tiruvannamalai District.

...Respondent

PRAYER:-

Criminal Original Petition filed under Section 482 of the Cr.P.C., to modify / convert the judgement of acquittal on benefit of doubt in S.C.No.7 of 2008 on the file of the Session Judge, Tiruvannamalai District, dated 28.02.2013 as an honourable acquittal.

For Petitioner : M/s.J.Star

For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

This petition has been filed seeking for converting the judgement of acquittal granted in favour of the petitioner as an honourable acquittal.

2. The learned Counsel for the petitioner submitted that the petitioner along with eight other accused persons faced trial before the Sessions Court, Tiruvannamalai, under various offences of Indian Penal Code. The petitioner was added as A9 in the said case. The learned Counsel submitted that the trial Court, after of giving a specific finding that the prosecution has not proved the case against the petitioner ought to have honourably acquitted the petitioner. Instead it proceeded to acquit the petitioner, by giving the benefit of doubt. This finding according to the learned Counsel for the petitioner goes contrary to the earlier finding of the trial Court. The learned Counsel submitted that in view of this fact, the petitioner who is working as a police constable is not in a position to get his

service benefits.

3. The learned Counsel for the petitioner in order to substantiate his submissions relied upon the judgement of this Court in 2015 (1) CTC 87, (E.Kalivarthan V. The State)

4. Heard learned Government Advocate appearing on behalf of the respondent.

5. A careful reading of the judgement of the trial Court makes it clear that the petitioner was acquitted honourably, since the prosecution did not provide any evidence against the petitioner. It will be relevant to extract the portion in paragraph 21 of the judgement dealing with the petitioner.

..... and whether the accused resided in the house of the A9, they does not know, and there is no positive evidence for the said charge against A9. In fact, on perusal of PW14, PW15, PW16, and PW22 evidences, this Court finds that there is no Iota of evidence against A8 and A9, except the fact that A8 Tamilmani is related to the 2nd accused, and this Court holds that for the charges levelled against A8 and A9, there is no positive, acceptable legal evidence against A8 and A9 and the prosecution has not proved he charges by letting any positive evidence against them.

6. The above finding makes it very clear that the petitioner was acquitted on merits without there being any evidence against him.

7. However, the trial Court has proceeded to acquit the petitioner with the following observation in paragraph 21 of the judgement.

..... this court holds that the prosecution has failed to prove the charges beyond reasonable doubt, by operation of law, they are given by the benefit of doubt. Giving benefit of doubt to all the accused, they are not guilty

of the charges levelled against them.

8. The above finding runs contrary to the earlier finding and the trial Court ought to have acquitted the petitioner on the merits of the case. In other words, the petitioner was entitled for a honourable acquittal.

9. The judgement relied upon by the learned Counsel for the petitioner squarely applies to the facts of the present case. When the Court finds that there is no evidence against the petitioner to support the charge, it is mandatory for the court to record Judgement of Acquittal on merits.

10. In view of the above, the judgement of acquittal passed in favour of the petitioner should be taken to be an honourable acquittal and not an acquittal by giving benefit of doubt.

11. This Criminal Original Petition is accordingly allowed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ksa-2/drl

To

1. The State rep. by
The Inspector of Police
Mangalam Police Station,
Tiruvannamalai District.

2. The Public Prosecutor,
High Court, Chennai.

+1cc to M/s.J.Star, Advocate, S.R.No.44820

Crl.O.P.No.8999 of 2019

CNR(CO)
CS/13/06/2019