

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Cr1.O.P. No.20380 of 2019

V.Sampath Kumar @ Sampath .. Petitioner / Accused No.5
Vs.

State by

The Inspector of Police,
Naduveerapattu Police Station,
Cuddalore District

.. Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to declare that the acquittal of the petitioner in C.C.No.1749 of 2014 rendered by the learned Judicial Magistrate No.1, Cuddalore, dated 09.07.2014 as "Hon'ble acquittal".

For Petitioner : Mr.K.Anbuselvan

For Respondent : Mr.M.Mohamed Riyaz

Addl.Public Prosecutor.

ORDER

This petition has been filed seeking to declare the acquittal of the petitioner in C.C.No.1749 of 2014, rendered by the learned Judicial Magistrate No.1, Cuddalore on 09.07.2014 as "Hon'ble acquittal".

2.It is seen from records that a case was registered against a petitioner by the respondent Police for an alleged offence under Section 294(b), 323 & 506(ii) of IPC. After completion of the investigation, the respondent Police filed a Final Report before the concerned Court and charges were framed against the petitioner. Thereafter, the petitioner underwent trial for the above said offence.

3.It is seen from the judgment of the Trial Court that PW 1 and PW2, who were examined on the side of the prosecution. PW1 turned hostile and the only evidence that was available before the Court was the evidence of the Investigating Officer, who was examined as PW-2. The Trial Court has given a categorical finding that the evidence of PW 1 has not supported the case of the prosecution and the prosecution has not made out their case beyond reasonable doubt only based on the evidence given by PW-2. Therefore, the Trial Court has come to a categorical conclusion that the prosecution has not proved the case beyond reasonable doubt against the petitioner.

4.The learned counsel for the petitioner would submit that after such a finding has been rendered in favour of the petitioner, the petitioner ought to have been acquitted honorably, and it cannot be taken as an acquittal by giving the

benefit of doubt. The learned counsel for the petitioner also relied upon the order passed by this Court in a similar case in CrI.O.P.No.8860 of 2018 dated 22.03.2018. This Court under similar circumstances had held that the judgment of acquittal was passed after appreciation of the evidence on record, and therefore, this Court had come to a conclusion that acquittal can only be treated as Hon'ble acquittal.

5.This Court has carefully considered the materials available on record and also the submission made by the learned counsel for petitioner and the learned Additional Public Prosecutor.

6.This Court is of the considered view that there were totally two witnesses examined on the side of the prosecution and out of the same, one witnesses did not support the case of the prosecution. The only other evidence that was available was that of the Investigating Officer, who was examined as PW-2. The Trial Court on examination of the evidence had given a categorical finding that the prosecution has not made out the case against the petitioner beyond reasonable doubts.

7.This Court is also relying upon the earlier order passed by this Court under similar circumstances.

8.In view of the above, the acquittal of the petitioner in C.C.No.1749 of 2014, on the file of the learned Judicial Magistrate No.1, Cuddalore District, dated 09.07.2014, is hereby held to be "Hon'ble acquittal".

9.Accordingly, the Criminal Original Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.1, Cuddalore District.
2. -Do-Thro' The Chief Judicial Magistrate, Cuddalore.
3. The Inspector of Police,
Naduveerapattu Police Station, Cuddalore District
- 4.The Public Prosecutor, High Court of Madras.

+1 cc to M/s.K.Anbuselvan,Advocate Sr.No.65273

AKM/ 30.08.19/ 2P-6C /