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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)Nos.244, 246 and 248 of 2012

The Commissioner,
Kulithalai Municipality,
Kulithalai, Karur District. ... Appellant in all Crl.As/
Respondent/Complainant

Vs.

1.Dish Hobby Cable Vision Company,
Rep. by its Administrator,
Ragupathi, K.P.S. Building,
Kulithalai, Karur District.

2.Ragupathi ... Respondents in all Crl.A.
(MD)No.244 of 2012 /Appellant/Accused

1.Cable Vision Company,
Rep. by its Administrator,
Thomas, Mani Palace,
Kulithalai, Karur District.

2.Thomas ... Respondents in all Crl.A.
(MD)No.246 of 2012 /Appellant/Accused

1.Srinivas Cable Vision Company,
Rep. by its Administrator,
Sivakumar, Theppakula Street,
Kulithalai, Karur District.

2.Sivakuamr ... Respondents in all Crl.A.
(MD)No.248 of 2012 /Appellant/Accused

Common Prayer: Criminal Appeals filed under Section 378 of Cr.P.C, to call for the records pursuant to the judgment dated 20.02.2012, passed in C.A.No.46, 47, 48 of 2011 respectively, on the file of the Court of Sessions, Karur, which reversing the judgment dated 09.08.2011 in C.C.Nos.230, 231, 232 of 2002 respectively, by the learned Judicial Magistrate No.II, Kulithalai and confirm the conviction and sentence passed by the Trial Court.

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For Appellant : Mr.M.Karthikeya Venkitachalapathy
(in all Crl.As)

For Respondents : Mr.R.M.Sivakumar
(in all Crl.As)

C O M M O N J U D G M E N T

The appellant herein was the complainant in C.C.Nos.230, 231 and 232 of 2002, respectively, on the file of the learned Judicial Magistrate No.II, Kulithalai. The appellant is a local body. The respondents herein were running cable television networks within the territorial limits of appellant municipality. According to the appellant, the respondents did not pay the entertainment tax. The further contention of the appellant is that track rent was also not paid. Therefore, the aforesaid private complaints came to be laid against the respondents. The learned Trial Magistrate found the respondents guilty under Section 15(3) of Tamil Nadu Exhibition of Films on T.V. Screen through VCR and through Cable Television Network (Regulation) Act, 1984 and sentenced them to undergo one year simple imprisonment and also pay fine of Rs.50,000/-. Challenging the judgment dated 09.08.2011, passed by the Trial Magistrate, the respondents filed C.A.Nos. 46, 47, 48 of 2011 respectively before the learned Sessions Court, Karur. By judgment dated 20.02.2012, the criminal appeals were allowed and the respondents were acquitted. Challenging the same, these criminal appeals have been filed.

2.Heard the learned counsel on either side.

3.It is seen that private complaints were filed only under the provisions of Tamil Nadu Entertainment Tax Act (Act 10 of 1939). Of course, the Tamil Nadu Cable Television Rules has also been mentioned in the complaints. But then, the charge against the respondents was only farmed under Tamil Nadu Entertainment Tax Act. It is not in dispute that the Government of Tamil Nadu waived the liability to pay the entertainment tax by the cable television operators. Therefore, the very foundation of the impugned complaints stands totally undermined. It is necessary to point out that no charge under the Tamil Nadu Exhibition of Films on T.V. Screen through VCR and through Cable Television Network (Regulation) Act, 1984 was ever framed against the accused. In fact complaints itself were not lodged under the said provision. The entire complaints were only under the Tamil Nadu Entertainment Tax Act, 1939. When there is no proper complaint and no proper charge, the accused could not have been found guilty under Section 15(3) of Tamil Nadu Exhibition of Films on T.V. Screen through VCR and through Cable Television Network (Regulation) Act, 1984 (Tamil Nadu Act 7 of 1984). The Appellate Court rightly acquitted the accused.

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No interference is warranted and there is no merit in the these appeals and the criminal appeals stand dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The Sessions Judge, Karur.

2.The Judicial Magistrate No.II,
Kulithalai

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:
The Section Officer, (2 Copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.RM.SIVAKUMAR, Advocate (SR-79428[F] dated 02/08/2019)

+1 CC to M/s.M.KARTHIKEYA VENKITACHALAPATHY, Advocate (SR-79598[F] dated 05/08/2019)

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02.08.2019

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