



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Seventh day of January Two Thousand Nineteen
PRESENT

WEB COPY

The Hon`ble Mr.Justice R.SUBBIAH
and
The Hon`ble Mr Justice B.PUGALENDHI

CRL OP(MD) No.20768 of 2018

in

CRL.A(MD) .NO.SR38238 of 2018

LATHA

... PETITIONER / APPELLANT

Vs

1.THOOSIMUTHU @ SARAVANAN
2 BALAJI
3 THANGAMAYAN

4.THE STATE REP.BY
THE INSPECTOR OF POLICE
C1, THIDEER NAGAR POLICE STATION,
MADURAI

... RESPONDENTS / RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant leave to the petitioner to prefer an appeal against the judgment dated 06.09.2018 made in SC No. 300 of 2014 on the file of IV Additional District and Sessions Judge, Madurai.

PRAYER IN CRL.A(MD) .NO.SR38238 of 2018:-

To call for the records and set aside the judgment dated 06.09.2018 made in S.C.No.300 of 2014 on the file of IV Additional District and Sessions Judge, Madurai.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.C.MUTHU SARAVANAN, Advocate for the petitioner and of Mr.E.SATHISH RAJKUMAR, Advocate for R1 & R2 and MR.JEGADEESH PANDIYAN, Advocate for R3, and PUBLIC PROSECUTOR FOR R4, the Court made the following order:-

[Order of the Court was made by **R.SUBBIAH, J.**]

The husband of the petitioner by name Ponmurugan was brutally murdered on 13.08.2010 and in this regard, a case was registered in Crime No. 1957 of 2010 by the 4th respondent herein against the respondents 1 to 3 herein / A1 to A3 and another accused by name Karupadasamy / A4, and after full trial in S.C.No.300 of 2014, the trial Court acquitted all the accused from the charges. Questioning the same, the petitioner, who is the victim, has preferred the above



Criminal Appeal and in order to entertain the same, the petitioner has filed this petition seeking the leave of the Court.

2. When the matter came up for hearing today, the learned counsel appearing for the petitioner, by relying upon a full decision of the Hon'ble Supreme Court in **Mallikarjun Kodagali Vs. State of Karnataka**, reported in **(2018) 4 MLJ (Crl) 744 (SC)** submitted that the petitioner being victim can file an appeal under Section 372 Cr.P.C. and that as per the majority view of the Hon'ble Supreme Court, only in respect of a case instituted upon a complaint, leave of the Court is necessary for filing an appeal against an order of acquittal and in respect of other cases, the leave of the Court is not necessary for filing an appeal against an order of acquittal.

3. This Court had taken note of the above decision of the Hon'ble Supreme Court. The petitioner, being a victim, can very well file an appeal against an order of acquittal under Section 372 Cr.P.C. Though the petitioner relied upon the above decision, she herself filed this petition seeking the leave of the Court. Hence, irrespective of the decision cited supra, this Court is inclined to grant leave to the petitioner and accordingly, the leave is granted.

sd/-
07/01/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.
2. THE INSPECTOR OF POLICE,
C1, THIDEER NAGAR POLICE STATION,
MADURAI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) No.20768 of 2018
in
CRL.A (MD).NO.SR38238 of 2018
Date : 07/01/2019