



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :01.09.2021

PRONOUNCED ON: 10.12.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.A.No.203 of 2021

and

CrI.M.P.No.6195 of 2021

Sekar ... Appellant/Accused
Vs.

1.The State represented by
The Deputy Superintendent of Police,
Cheyyar Sub Division,
Thiruvannamalai District. ... Respondent/Complainant

2.E.Selvarasu, Tasildhar, Vandavasi,
Tiruvannamalai ... De-facto complainant/ Respondent

PRAYER: Criminal Appeal filed under Section 374 (2) of the Code of Criminal Procedure, 1973, to set aside the order of the Special Court for Trial of cases under SC/ST (POA, Act), Thiruvannamalai in Special Session case No.52 of 2019 dated 30.03.2021 as illegal, incompetent and without jurisdiction.

For Appellant : Mr.V.Raghavachari

For R1 : Mr.S.Sugendran
Government Advocate, (Criminal Side)

JUDGMENT

This Criminal Appeal has been filed to set aside the order of the Special Court for Trial of cases under SC/ST (POA, Act), Thiruvannamalai, in Special Session case No.52 of 2019, dated 30.03.2021.

2.The respondent Police registered a case against the appellant/accused in Crime No.356 of 2012 for the offence under Sections 9, 16, 17, 18 of the Bonded Labour System(Abolition) Act, 1976 and Sections 3(1)(vi)(xv) of SC/ST Act, and Sections



341 and 374 IPC. After completing the investigation, the respondent Police laid a charge sheet before the learned Judicial Magistrate, Cheyyar. The learned Magistrate taken cognizance of the charge sheet on file in P.R.C.No.6 of 2013 and after completing the formalities committed the case to the Sessions Court, since the offense is exclusively triable by a Court of Session and the Case was committed to the Court of Session. After completing the formalities, the Sessions Judge, taken the case on file in S.C.No.96 of 2013 and framed charges under Section 374 IPC r/w Sections 3(1)(vi) & (xv) of SC/ST (POA) Act and after establishment of the designated Court for trial of cases under SC/ST Act, the case was made over to the Special Court for disposal and the Special Court taken the case on file in Special Sessions Case No.52 of 2019 and after completing the formalities proceeded with the trial.

3. In order to prove the case of the prosecution, on the side of the prosecution as many as 16 witnesses were examined as P.Ws.1 to 16 and 12 documents were marked as Exs.P.1 to 12 and no material object was marked. After examining all the prosecution witnesses, incriminating circumstances culled out from the evidence of prosecution witnesses put before the appellant/accused, by questioning under section 313 Cr.P.C, he denied the same as false and pleaded not guilty. On the side of the defence, no witness was examined and no document was marked. However, 8 documents were marked as Court documents Ex.C.1 to Ex.C8.

4. On completion of trial, after hearing the arguments advanced on either side and considering the materials, on conclusion of trial, found not guilty of the appellant/accused for the offence punishable under section SC/ST Act and however found guilty of the appellant/accused for the offence punishable under Section 374 IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default, to undergo simple imprisonment for further period of one month and also ordered a sum of Rs.35,000/- to P.W.4 to P.W.10, who are the victims in this case, as victim compensation under Section 357 Cr.P.C., in which, each of them are entitled to receive a sum of Rs.5,000/- towards compensation.

5. Challenging the said judgment of conviction and sentence passed by the the Special Court for Trial of cases under SC/ST (POA, Act), Thiruvannamalai, the appellant/accused has filed the present Criminal Appeal before this Court.



6.The learned counsel appearing for the appellant/accused would submit that the appellant is in no way connected with the case and he has not engaged the victims either as bonded labourers or as forced labourers and none of the witnesses have spoken about the fact that the appellant engaged the victims viz., P.W.4 to P.W.10 as forced labourers and he never restricted the victims to go out of the working place and they allowed to move freely and they were paid reasonable amount and they were not forced by the appellant to do any work. P.W.1, who is the Revenue Divisional Officer, has not produced any documents to show that the appellant engaged the victims as forced labourers and further P.W.4 to P.W.10, who are the relatives of the appellant are interested witnesses, who belong to same family and therefore, their evidence cannot be taken for convicting the appellant. No documents were produced to prove that P.W.4 to P.W.10 were engaged by the appellant as forced labourers and also paid only below the minimum wages. Originally, a case was registered for the offence under Section SC/ST Act and the trial Court framed the charges against the appellant only for the offences under Section SC/ST Act and also Section 374 IPC. The trial Court, appreciating the evidence of prosecution, has come to the conclusion that the appellant was found not guilty for the offence under Section SC/ST Act and however, erroneously gave a finding that the appellant had committed the offence under Section 374 IPC. P.W.11 and P.W.14 turned hostile and they have not supported the case of the prosecution and the Observation Mahazar was also not proved. Further, all the Court documents are only xerox copies and the author of the documents has also not been examined to prove Ex.C.1 to Ex.C.8. The trial Court only based on sympathy, has convicted the appellant and absolutely there is no material to prove that the appellant had committed the offence under Section 374 IPC. Hence, he prays for setting aside the judgment of the Court below.

7.The learned Government Advocate (Crl.side) appearing for the State would submit that, on information, P.W.1, who was working as the Revenue Divisional Officer, Cheyyar, went along with other Officials to Ariyapatti Village and found that some of the persons were engaged for cutting trees. While examining them, they have stated that they were working as bonded labourers and the appellant forced them to do the work and they were paid only a sum of Rs.100/- per week and they were not allowed to go outside of the working place and recorded their statements and released the victims P.W.4 to P.W.10 and also paid Rs.1,000/- as interim compensation and also gave the



Release Bond Certificates in their favour. P.W.2 and P.W.3 viz., Tahsildar and Village Administrative Officer have corroborated the evidence of P.W.1. The labourers, who were engaged by the appellant, were examined as P.W.4 to P.W.10 and they have clearly stated that they were engaged by the appellant and paid a sum of Rs.4,000/- to Rs.13,000/- as advance for engaging them, for which, they were forced to work and paid Rs.100/- per head a week and they were not allowed to go anywhere. Even for funeral or any other function, they were not allowed to go and if at all any necessities so arises, only one person was allowed to go and rest of the persons were forced to do their work from morning 6.00 a.m., to evening 6.00 p.m., and if they seek permission to go outside of the premises, the appellant/accused used to scold them with filthy language by uttering their caste name. On information, P.W.1 along with other officials came to the spot where they were working and recorded their statements and gave a sum of Rs.1,000/- as interim compensation and also released them. Therefore, based on the complaint given by P.W.1, the respondent police registered a case and also conducted the investigation and after completion of investigation, they have filed the charge sheet before the learned Jurisdictional Magistrate. The Special Court, after completing the formalities and on conclusion of trial, has come to the conclusion that the appellant/accused was found not guilty of the offence punishable under section SC/ST Act and however found guilty of the offence punishable under Section 374 IPC and convicted the appellant/accused as stated above. Hence, there is no merit in the appeal and the same is liable to be dismissed.

8.Heard Mr.V.Raghavachari, learned counsel appearing for the appellant/accused and M.S.Sugendran, learned Government Advocate (Crl.side) appearing for the respondent.

9.The case of the prosecution is that the victims and the accused are personally known to each other and on 17.07.2012, the accused engaged the victims as forced labourers for illegally cutting the trees by paying them minimum wages and they were cruelly treated by the appellant for the past two years. On information, P.W.1 to P.W.3 went to the spot and recorded their statements and also released them. Based on the complaint given by P.W.1, the respondent police registered a case against the appellant/accused.

10..The appellate Court is the final Court of fact finding, it has to re-appreciate and revisit the entire evidence and to give an independent finding.



WEB COURT

11.Originally the case was registered for the offence under Sections 9, 16, 17 & 18 of the Bonded Labour System (Abolition) Act, 1976, Sections 3(1)(vi) & (xv) of SC/ST (POA) Act and Sections 341 and 374 IPC. On completion of investigation, charge sheet was filed by the respondent police before the learned Jurisdictional Magistrate only for the offence under SC/ST Act and IPC and the appellant/accused left out for the offence under the Bonded Labour System(Abolition) Act, 1976. Further, the Sessions Court has framed the charges under Section 374 IPC r/w. Sections 3(1)(vi)&(x) of SC/ST (POA) Act. The appellant/accused was found guilty for the offence under Section 374 IPC. Neither the prosecution nor the victims have filed the appeal for acquittal of the offence under SC/ST Act. Therefore, this Court cannot go beyond the scope of the appeal. Further, the trial Court has also found that the investigation has not been completed within the stipulated time and filed the charge sheet and on technical ground only, acquitted the appellant/accused for the offence under Section SC/ST Act. Though the learned counsel for the appellant vehemently contended that none of the witnesses have spoken about the involvement of the appellant and no evidence would show that the victims P.W.4 to P.W.10 were engaged as forced labourers and as such, the Special Court has erroneously gave a finding that the appellant had committed the offence under Section 374 IPC.

12.In order to substantiate the charges before the trial court, totally as many as 16 witnesses were examined, 12 documents were marked on the side of the prosecution and 8 Court documents were marked. P.W.1 is the Revenue Divisional Officer, Cheyyar, who has clearly spoken about the inspection of the place and found that the victims P.W.4 to P.W.10 were engaged as forced labourers and released them and gave the Release Bond Certificates in their favour. P.W.2 and P.W.3 are the Tahsildar and the Village Administrative Officer, who have corroborated the evidence of P.W.1 regarding the visiting of the place and enquired the victims and subsequently, recorded the statement and also released them. Though in this case no charge was framed for the offence under the Bonded Labour System (Abolition) Act, 1976, the charge was framed only for the offence under Section 374 IPC r/w. Sections 3(1)(vi) &(x) of SC/ST (POA) Act. In order to substantiate the charge, the prosecution has examined P.W.1 to P.W.3, who are the official witnesses and P.W.4 to P.W.10, who are the victims have categorically stated that they were engaged by the appellant/accused and they were paid only Rs.100/- per head a week and they were not allowed to go freely anywhere and even



for the funeral or any other function, they were not allowed to go and if at all any necessities so arises, only one person was allowed to go and rest of the persons were engaged to do their work from morning 6.00 a.m., to evening 6.00 p.m., and if they seek permission to go outside of the premises, the appellant/accused used to scold them with filthy language and also humiliated their caste name. The appellant, for engaging the victims to do the work, paid a sum of Rs.4,000/- to Rs.13,000/- as advance and forced to work from morning 6.00 a.m., to evening 6.00 p.m and paid a sum of Rs.100/- per head a week. If they seek leave or not able to do any work, the appellant used to scold them with filthy language by uttering their caste name. The learned counsel appearing for the appellant submitted that P.W.4 to P.W.10 are the relatives and one family members and they are the interested witnesses. However, in the evidence of P.W.1 to P.W.3, they have stated that while inspecting occurrence the place, they found that the victims were engaged by the appellant and their statements were recorded and they were released by them and also gave the Release Bond Certificates and also paid a sum of Rs.1,000/- as interim compensation.

13.The trial Court has rightly appreciated the evidence of P.W.1 to P.W.10 and the Court documents C.1 to C.8 and came to the conclusion that the appellant has committed the offence under Section 374 IPC, as the appellate Court is a fact finding Court and also re-appreciating the evidence of P.W.1 to P.W.10, Ex.P.1 to Ex.P.12 and Ex.C.1 to Ex.C.8, this Court does not find any merit in the appeal and there is no reason to interfere with the judgment of the trial Court. Hence, this Criminal Appeal is dismissed. Consequently, connected Miscellaneous Petition is also closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

Ns
To

1.The Sessions Judge,
The Special Court
for Trial of cases under
SC/ST (POA, Act),
Thiruvannamalai.



2.The Judicial Magistrate,
Cheyyar.

3.-Do-Thro' The Chief Judicial Magistrate,
Thiruvannamalai.

4.The Deputy Superintendent of Police,
Cheyyar Sub Division,
Thiruvannamalai District.

5. The Public Prosecutor,
Madras High Court,
Madras.

Copy to

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.V.Raghavachari, Advocate Sr.65517

CRL.A.No.203 of 2021
and
CrI.M.P.No.6195 of 2021

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