



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRIMINAL ORIGINAL PETITION NO.18190 OF 2021
IN
CRIMINAL APPEAL SR.NO.29866 OF 2021

State represented by
The Inspector of Police,
Thirumakottai Police Station,
Thiruvarur District.
Crime No.24/2016

.. Petitioner/Complainant

Vs.

Prabha @ Prabakaran
S/o.Karunakaran

.. Respondent/Accused

Prayer:-

Criminal Original Petition filed u/s.378 (4) of the Code of Civil Procedure praying to grant leave to appeal to this Court against the judgment of acquittal of respondent/accused passed in S.C.No.92 of 2016 dated 21.12.2016 by the learned District and Sessions Judge, Thiruvarur District.

For Petitioner : Mr.Hasan Mohamed Jinnah
State Public Prosecutor
assisted by Mr.R.Muniyapparaj,
Additional Public Prosecutor

O R D E R

[Order of the Court was delivered by P.N.PRAKASH, J]

This Criminal Original Petition has been filed seeking to grant leave to appeal to this Court against the judgment of acquittal of respondent/accused passed in S.C.No.92 of 2016 dated 21.12.2016 by the learned District and Sessions Judge, Thiruvarur District.



2. It is the case of the prosecution that the deceased Mani was living with his son-in-law Elumalai [PW-9] in Melanatham village. Elumalai's [PW-9's] blood sister Pushpavalli was working in Singapore and was sending monies periodically to India. The accused, in this case, Prabha @ Prabakaran is the only son of Pushpavalli. It is the specific case of the prosecution that Prabha @ Prabakaran was harbouring ill-feeling against his maternal uncle Elumalai [PW-9] and also Elumalai's father-in-law Mani, as Prabha @ Prabakaran believed that these people were appropriating to themselves the monies that is being sent by his mother from Singapore and not giving him anything.

3. It is the further case of prosecution that ten days prior to the occurrence, Mani hit Prabha @ Prabakaran resulting in Prabha @ Prabakaran suffering tooth fall and this had aggravated the ill-feeling between the two. It is alleged that on 04.03.2016, Prabha @ Prabakaran attacked Mani and his wife Dhanam [PW-1] with a bill hook resulting in the death of Mani and injuries to Dhanam [PW-1]. However, within 15 days of this occurrence, Pushpavalli was allegedly murdered by Jayakanthan, the son of Mani and Dhanam [PW-1]. On these allegations, Prabha @ Prabakaran faced prosecution in S.C.No.92 of 2016 for the offences u/s.302, 307 and 506(II) IPC before the District and Sessions Judge, Tiruvarur, in which he has been acquitted on 21.12.2016. Challenging the acquittal, the State has filed the present appeal with a delay of 1090 days, which we condoned in CrI.M.P.No.9778 of 2021 on 24.09.2021.

4. Coming to this Special Leave Petition, we have carefully perused the judgment of the trial Court. The trial Court has disbelieved the evidences of the injured witnesses by giving sound reasons. It is the defence of Prabha @ Prabakaran that he was framed in this case by the family of Mani, so that they could usurp all the properties of his mother Pushpavalli. The trial Court has found that the important records, like statement of alleged eyewitnesses, were sent to the Court only on 28.03.2016, which is after the murder of Pushpavalli by the son of Mani and Dhanam [PW-1].

5. In V. Sejappa vs. State¹, wherein, the Supreme Court, after considering the earlier judgments, has broadly catalogued the parameters to be borne in mind by the Court while dealing with an appeal against acquittal. The said parameters laid down by the Supreme Court are profitably extracted hereunder:

"23. . . . Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate court must bear in mind the following:

1 (2016) 12 SCC 150



WEB COPY

(i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court;

(ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;

(iii) Though, the powers of the appellate court in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanour of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and

(iv) Merely because the appellate court on reappraisal and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate court in the judgment of the trial court."

6. It is trite that when there are two views possible on a set of evidence, the view that supports the accused merits acceptance. In this case, the trial Court has given cogent reasons for disbelieving the evidences of the prosecution witnesses and we find that there is no perversity in the judgment and order of the trial Court warranting interference.



In the result, this Criminal Original Petition stands dismissed. Consequently, the Criminal Appeal is rejected at the SR stage.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1. The District and Sessions Judge,
Tiruvarur.
2. The Inspector of Police,
Thirumakottai Police Station,
Thiruvarur District
3. The Public Prosecutor,
High Court, Madras.

Copy To

The Sub Assistant Registrar
Criminal Section
High Court, Madras.

Criminal Original Petition No.18190 of 2021
in
Criminal Appeal Sr.No.29866 of 2021

GJ(CO)
PM/11/10/2021