

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1084 of 2020

Parthiban Ravindran

... Petitioner

Versus

Moduga Sri Jagadish

... Respondent

PRAYER: Criminal Revision petition is filed under Section 397 & 401 Cr.P.C seeking to enhance the sentence and compensation imposed to the respondent accused in connection with S.T.C.No.1141 of 2016 vide judgement dated 24.02.2020 on the file of the Judicial Magistrate-I, Gobichettipalayam.

For Petitioner : Mr.C.Arun Kumar

O R D E R

This Criminal Revision Petition has been filed seeking to enhance the sentence and compensation imposed to the respondent/accused in connection with S.T.C.No.1141 of 2016 vide judgement dated 24.02.2020 on the file of the Judicial Magistrate-I, Gobichettipalayam.

2. The petitioner is the complainant and he has filed private complaint before the Judicial Magistrate-I, Gobichettipalayam in S.T.C.No.1141 of 2016. In the said case, after enquiry, the learned Judicial Magistrate convicted the respondent and imposed the compensation. Against which, the respondent/accused has filed the appeal before the Sessions Court in Crl.A.No.76 of 2020. Whereas the petitioner also filed the appeal before the Sessions Court for enhancement of the compensation and sentence and the same was returned by the Sessions Court for maintainability of the appeal before the Sessions Court citing the Full Bench Judgment in Crl.R.C.No.494 and 536 of 2019 of this Court. Challenging the said return order passed by the office of the Sessions Judge, the petitioner has approached this Court by way of this Revision.

3. The learned counsel for the petitioner would submit that the Hon'ble Supreme Court in [Damodar S.Prabhu Vs. Sayed Babalal H] 2010 5 SCC 663 has specifically held in Paragraph No.20 as follows :-

20. It may be noted here that Section 143 of the Act makes an offence under Section 138 triable by a Judicial Magistrate First Class (JMFC). After trial, the progression of further legal proceedings would depend on whether there has been a conviction or an acquittal.

Therefore, there is no law laid down regarding the appeal filed for enhancement of the compensation and sentence. Therefore, citing the Full Bench Judgment of this Court in Criminal Appeal Nos.89 & 90 of 2020 and Criminal Revision Case Nos.494 & 536 of 2019 [K.Rajalingam - Vs.- R.Suganthalakshmi] the Sessions Judge returned the same.

4. Heard and perused the records.

5. Admittedly the petitioner filed private complaint before the Judicial Magistrate-I, Gobichettipalayam in S.T.C.No.1141 of 2016. After enquiry, the learned Magistrate convicted the accused and directed to pay compensation. There against the respondent/accused has filed the appeal before the learned Sessions Judge in CrI.A.No.76 of 2020 and the same is pending. The petitioner also filed an appeal before the Sessions Judge for enhancement of compensation and sentence and the office of the Sessions Judge returned the same.

6. Though the Full Bench of this Court taken a view that under Section 138 of the NI Act, appeal against acquittal should be filed before the High Court not before the Sessions Court, the amendment to Cr.P.C could not be applicable to the appeal filed against the acquittal under NI Act. Further, the Full bench of this Court does not discuss anything about the appeal for enhancement of sentence and compensation. The aggrieved party filed appeal for enhancement of the compensation and sentence. Therefore the endorsement made by the office of the Sessions Judge is set aside and the learned Sessions Judge is directed to take appeal filed by the petitioner on file and dispose it along with CrI.A.No.76 of 2020, if it is otherwise in order.

7. With the above direction, this Criminal Revision is disposed of.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate-I,
Gobichettypalayam.

2.The Principal District and Sessions Judge,
Erode.

Cr1.RC.No.1084 of 2020

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