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Crl.R.C.No.460 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.460 of 2020

Murugan

... Petitioner

Vs.

State represented by
The Inspector of Police,
Pudupettai Police Station,
Cuddalore District.
Respondent

...

Prayer:

Criminal Revision filed under Section 397 read with 401 Cr.P.C., to call for the records in C.C.No.39 of 2016 on the file of the learned Judicial Magistrate No.II, Panruti dated 05.10.2016 and expunge the remark of the acquittal of benefit of doubt and hold that the acquittal was Hon'ble.

For Petitioner : Mr.S.Saravana Kumar

For Respondent : Mr.R.Murthi
Government Advocate (Criminal Side)



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ORDER

This Criminal Revision Case has been filed against the order dated 05.10.2016 passed in C.C.No.39 of 2016 on the file of the learned Judicial Magistrate No.II, Panruti.

2. The respondent police registered the case against nine accused in Crime No.19 of 2016 for the offence under Sections 148, 294(b), 323, 324, 506(ii) IPC. The petitioner was arrayed as ninth accused in the said case. After investigation, laid a charge sheet before the learned Judicial Magistrate No.II, Panruti. The learned Magistrate has taken the charge sheet on file in C.C.No.39 of 2016. After framing charges, the trial court found that the prosecution has not proved its case beyond reasonable doubt and extended the benefit of doubt to all the accused, due to which all the accused were acquitted. Neither the State nor the accused has filed appeal against the order passed by the trial court. The ninth accused has filed this Criminal Revision Case to expunge the remark of the acquittal on benefit of doubt on him and hold that the acquittal was honourable.



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3. The learned counsel for the petitioner would submit that the petitioner had applied for the post of Grade II Police Constable-TSP governed by the Tamil Nadu Sub-ordinate Police Service Rules for the year 2019. He had attended the written test as well as the physical efficiency test and in both the tests, he became successful and he called for certificate verification. When he was awaiting for orders selecting him for the said recruitment, he was acquitted only by extending the benefit of doubt and as per Rule 13 Explanation (1) of the Tamil Nadu Special Police (sub-ordinate service) rules, on the basis of the report submitted regarding their antecedents, the petitioner was found unfit for the post. Hence, the revision petitioner is before this Court. Further he submitted that the petitioner was acquitted of all the charges framed against him, however, while recording acquittal, though the trial court had found that there was no evidence and material against the petitioner, however, instead of passing an order of acquittal simpliciter, had extended the benefit of doubt based on the prosecution evidence.

4. Further he would submit that prosecution has examined seven witnesses as P.Ws.1 to 7. In this case, P.W.1-defacto-complainant himself



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turned hostile and he has not supported the case of prosecution and other injured cum eye witnesses P.W.2 to P.W.6 were also turned hostile. The prosecution has failed to get reliable evidence from the witnesses P.Ws.1 to 6 and they are not implicated the petitioner as accused. Further, the petitioner is aged about 25 years and he will not eligible for the employment in the next selection. Hence he filed this Criminal Revision Case

5. Learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner was involved in the case in Crime No.19 of 2016 on the file of the respondent police. Based on the complaint of P.W.1-defacto-complainant, F.I.R was registered. Investigation also reveals the involvement of the petitioner in the said offence. P.W.1- defacto-complainant in his evidence has stated that group of persons assaulted him and he could not see who are the accused attacked him. Hence, the trial court extended the benefit of doubt on the accused and acquitted them. There is no merit in the Criminal Revision Case and the same is liable to be dismissed.



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6. Admittedly, the defacto-complainant was examined as P.W.1 and he has given complaint-Ex.P1 before the respondent Police. Based on his complaint, F.I.R was registered as against the revision petitioner and eight other persons, for the offences under Sections 148, 294(b), 323, 324 and 506(ii) IPC. In Ex.P3-F.I.R, petitioner has been arrayed as Accused No.9. On a perusal of Ex.P1, it is found that there was a specific overt act attributed as against the revision petitioner. After investigation, charges were framed as against the the revision petitioner. Investigating Officer has also found that the revision petitioner was involved in this case. During trial, the defacto- complainant was examined as P.W.1 who has categorically stated about the incident and also the injuries sustained by him. During trial, he has stated that he was not able to state as to who are all the accused attacked him. In the complaint, F.I.R and charge sheet, petitioner has been shown as accused. In the A.R entry, it is stated that known persons have attacked him. Considering the facts and circumstances of the case, the trial court extended the “benefit of doubt” on all the accused and acquitted them. A person who is involved in a criminal case and if he is selected in the posts under uniformed services, it will not be fair for the Department to select him, once he has been tried before a criminal court.



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6. In view of the above, this Court finds no merit in the Criminal Revision Petition and the same is liable to be dismissed. Accordingly, Criminal Revision Case is dismissed.

10.01.2023

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Index:yes/No

Internet:yes/No

To

1. The Judicial Magistrate No.II,
Panruti.
2. The Inspector of Police,
Pudupettai Police Station,
Cuddalore District
3. The Public Prosecutor,
High Court, Madras.

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P.VELMURUGAN, J.

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