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Crl.A.No.160 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

CORAM

THE HON'BLE MR. JUSTICE P. VELMURUGAN

Criminal Appeal No.160 of 2020

State by
The Inspector of Police,
Crime Branch C.I.D.,
Erode District.
[Kolathur P.S. Crime No.730 of 2001)

.. Appellant

Versus

Muthulakshmi
W/o.Veerappan @ Mozhukkan

.. Respondent

Criminal Appeal filed under Section 374(2) of Cr.P.C., praying to set aside the judgment of acquittal of the respondent/accused [A-7] passed by the III Additional District and Sessions Court, Erode at Gobichettipalayam in S.C.No.181 of 2008, dated 29.10.2012 and to conduct re-trial based on the future final report and its connected documents filed by the Inspector of Police, CB CID, Erode under Section 173 (8) Cr.P.C. on 24.10.2005 to prove the evidence against the respondent/accused [A-7] - Tmt.Muthulakshmi, W/o.Veerappan @ Mozhukkan.

For Appellant : Mr. S. Sugendran
Additional Public Prosecutor

For Respondent : Mr. E.V. Chandru
Legal Aid Counsel



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JUDGMENT

The prosecution has come forward with this appeal questioning the correctness of the judgment of acquittal, acquitting the respondent/A7 in S.C.No.181 of 2008 on the file of the learned III Additional District and Sessions Court, Erode & Gobichettipalayam.

2. The prosecution came to be launched against 26 persons as A1 to A26. The respondent herein is arrayed as A7 in the criminal proceedings. The case of the prosecution is that on 30.07.2000 at about 08.45 p.m., Karnataka Cine Artist Rajkumar was abducted from his Farm House by one Veerappan and his associates. The abductors have demanded ransom as a condition precedent for the release of the abducted Cine Artist. In this connection, a case in Crime No.90 of 2000 was registered and taken up for investigation. In the mean time, it is alleged that Rs.15 Crores was paid for releasing the abducted Cine actor. It is further alleged that the sum of Rs.15 Crores was received by the accused in the criminal case by hatching a conspiracy and the booty was shared among themselves either by depositing the amount in the bank or by purchasing Motor Vehicles, jewels or by hiding the case in a secluded place. In this context, on 11.11.2001, the Inspector of Police, Kolathur Police Station,



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Salem District has got a secret information that the money received as ransom during the abduction of Rajkumar has been concealed in the residence of one Iyyadurai. Therefore, the First Information Report was registered and a search was conducted in the residence of Iyyadurai as well as one Madhaiyan. During the course of such search, the police officials claimed to have recovered a sum of Rs.1,36,000/- and 11 3/4 sovereign of jewels from the residence of Iyyadurai. It is also claimed that a sum of Rs.3,40,000/- and 4 deposit receipts in the names of Amaravathi @ Amara, Madhaiyan, Muthukumar and Madesh have been recovered. It is also claimed that during the course of investigation, statement of Chandrasekar @ Chinnakannu @ Sekar and Neruppur Mani were recorded under Section 164 Cr.P.C by the Judicial Magistrate (P.W.41). Based on the confession statement given, a sum of Rs.2,39,500/- (M.O.5) was recovered from one Thambi; a sum of Rs.3,23,000/- (M.O.12) was recovered from A12, Rs.3,42,000/- (M.O.16) and Rs.4,00,000/- (M.O.17) from Munusamy. Subsequently, the accused in the present case have been charge sheeted for various offences.

3. After trial in S.C. No. 181 of 2008 some of the accused have been convicted while some others were acquitted. As against the acquittal of the respondent/A7, the present Criminal Appeal is filed by the prosecution.



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4. It is note worthy to mention that the accused who have been convicted by the Trial Court have filed two sets of appeals namely Criminal Appeal Nos.788 and 809 of 2012 before this Court. By a common judgment dated 01.03.2019 this Court allowed the Criminal Appeals and over turned the judgment of conviction recorded by the trial Court. The relevant portion of the judgment dated 01.03.2019 passed by this Court in Criminal Appeal Nos.788 and 809 of 2012 reads as follows:

13. To establish the guilt of a person under Section 412 of IPC, the prosecution first should prove the recovery from their possession. In this case, though P.W.23 says that A1 deposited Rs.1,00,000/- in their bank, there is no material documents to substantiate this. When the Village Administrative Officers deposited about the recovery of money during the search proceedings, their evidence is not corroborated by any other independent witnesses. All Village Administrative Officers have certified that the accused persons had no sufficient means. But in the cross examination, these witnesses not able to substantiate under what basis they have given such certificate.

14. As pointed out by the learned counsel appearing for the appellants, the alleged crime of receiving ransom and the alleged recovery is not within the reasonable time, but after lapse of several months. The link to the crime and the recovery of the money have not been established. More so, when the accused persons have disowned the money and the disputed the very recovery of material objects from their possession, the conviction merely based on the evidence of the Village Administrative Officers, is unsafe. Hence, they are bound



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to be acquitted extending the benefit of doubt.

15. Accordingly, these Criminal Appeals are allowed. The judgment of conviction and sentence imposed by the learned III Additional District Sessions Judge, Gibichettipalayam dated 29.10.2012 in S.C.No.181 of 2008 is set aside. Fine amount, if any paid by the appellants shall be refunded to them. Bail bond if any executed by the appellants stands cancelled. The Material Objects 1 to 19 are directed to be confiscated to the State.

5. As regards the present appeal, it is the vehement contention of the prosecution that the accused, including the respondent/A7 herein, have dishonestly received the ransom from Veerappan and his gang who have abducted Karnataka Cine Artist Rajkumar. According to the prosecution, 13 accused in this case, out of 26 accused, have been initially arrested and properties have been seized from them. As far as the respondent/A7 is concerned, she had two housing sites each measuring 1625 Sq.ft in S.F.No.21/1A in Sooramangalam, Salem District and 6 fixed deposits amounting to Rs.3 lakhs in her name in State Bank of Mysore, 5 Roads Branch, Sooramangalam, Salem District. In spite of specific evidence made available against the respondent/A7 the learned Sessions Judge erroneously acquitted her by giving the benefit of doubt on the ground that the document seized relating to these properties were not forwarded to the learned III Additional District and Sessions Court, Erode during the time of committal



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proceedings.

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6. The learned Additional Public Prosecutor would vehemently contend that the final report in this case was filed by the Inspector of Police, Crime Branch, CID, Erode under Section 173(8) Cr.P.C. Along with the final report documents have been filed on 24.10.2005 and those documents are still in the custody of the learned Judicial Magistrate, Sathyamangalam, Erode District. It is his contention that those documents are still in the custody of the learned Magistrate Court and if those documents have been forwarded along with other connected records during the committal proceedings in the present sessions case, they would have been marked as evidence and the respondent/A7 would have been convicted. In other words it is his specific contention that evidence have been gathered by the prosecution, however, those evidences against the respondent/A7 have not been produced during the course of trial in the present Sessions case. It is also submitted that the then Inspector of Police, CBCID gave a letter to the Sub-Registrar, Sooramangalam to prohibit the alienation of the two properties held in the name of the respondent/A7. The letter was also acknowledged by the Sub-Registrar, Sooramangalam on 10.10.2005. Similarly, the letter was given to the Branch Manager, State Bank of Mysore, 5 Roads Branch, Sooramangalam, Salem District on 04.10.2005 to freeze the



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Savings Bank Account in the name of the respondent/A7 and to with-hold the Fixed Deposits in the name of respondent/A7 as well as her daughters Vijayalakshmi and Vidhyarani on 10.10.2005. Thus, it is stated that steps have been taken by the Inspector of Police to prevent the further alienation of the property as well as from withdrawing the amount standing in the name of the respondent/A7. However, those documents have never reached the Sessions Court for being used against the respondent/A7 during the course of trial. It is also submitted that the Investigating Officer has filed additional Final Report under Section 163(8) of Cr.P.C and also sought to examine some other witness in the trial. But such request made by the Investigating Officer were never forwarded by the learned Judicial Magistrate, Sooramangalam which let to the acquittal of the respondent/A7. Therefore, the learned Additional Public Prosecutor would prayed for setting aside the order of acquittal passed against the respondent/A7 and remit the matter back to the Sessions Court for reconsideration.

7. On the above submissions of the learned Additional Public Prosecutor and Mr. E.V. Chandru, learned Legal Aid Counsel for the respondent/A7 and perused the materials placed on record.



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8. At the outset, this Court wish to observe that during the course of trial in the sessions case, some of the accused have been convicted and even the judgment of conviction recorded by the trial Court came to be set aside by this Court on appeal filed by them in Criminal Appeal Nos.788 and 809 of 2012.

9. As far as the present appeal is concerned, the entire case of the appellant/prosecution is that they have filed some documents and also sought to examine some witness during the course of trial. However, those additional documents have not been forwarded during the committal proceedings by the learned Judicial Magistrate and trial completed without those documents having been marked. If it is so, the prosecution alone has to be blamed. During the course of trial or until the conclusion of trial, the prosecution did not take any steps to mark those documents against the respondent/A7. For the failure on the part of the prosecution to produce the documents during the course of trial, the judgment of acquittal recorded by the trial Court cannot be reversed in this appeal. It is not known as to what prevented the prosecution to produce those documents or to make a request to the learned Sessions Judge to call for those documents from the Court of learned Judicial Magistrate, Erode. The prosecution ought to have taken all earnest efforts to ensure that the documents



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gathered during the course of investigation are marked in the trial as against the respondent/A7. Having failed to mark those documents against the respondent, the present attempt on the part of the appellant in filing this appeal cannot be appreciated. Even otherwise, the trial Court in the impugned judgment has extensively analyzed the evidence of P.Ws.1 to P.W.63 as well as the documentary evidence produced under Exs.P1 to P65 and come to a definite conclusion that the prosecution failed to bring home the guilt of respondent/A7. The trial Court has recorded reasons for acquitting the respondent/A7 from the criminal prosecution. It is well settled position that an order of acquittal recorded by the trial Court cannot be reversed unless the prosecution produces strong and cogent evidence which were omitted to be considered by the trial Court during the course of trial. In the present case, the main ground urged by the prosecution in the present appeal is that they have gathered some documents during the course of investigation but those documents are still in the custody of the learned Judicial Magistrate, Erode without being forwarded to the Court of session for recording them in the trial against the respondent/A7. It is also to be pointed out that there is no evidence produced by the prosecution in this appeal to show that they have taken some steps for forwarding those material documents gathered during investigation to the Sessions Court. Having failed to forward the so called documents collected



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as against the respondent/A7 or marking those documents during the trial as against the respondent/A7, the prosecution is not entitled to file the present appeal as against the well considered judgment of acquittal passed by the trial Court. The present appeal has been filed by the prosecution without any material evidence to reverse the judgment of acquittal passed against the respondent/A7. This Court does not find any reasons to reverse the judgment of acquittal passed by the learned Sessions Judge.

10. With the above observations, this Criminal Appeal stands dismissed.

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To

1.The Inspector of Police,
Crime Branch C.I.D.,
Erode District.
Kolathur P.S.

2.The III Additional District and Sessions Judge,
Erode, Gobichettipalayam.



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P.VELMURUGAN, J.

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