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Crl.M.P.No.12168 of 2023

in

Crl.A.No.649 of 2023

M.SUNDAR, J.,

and

R.SAKTHIVEL, J.,

[Order of this Court was made by M.SUNDAR,J.,]

Captioned main criminal appeal has been filed in this Court against a judgement of acquittal dated 23.12.2022 made in S.C.No.62 of 2010 on the file of Court of Principal District and Sessions Judge, Thiruvarur' [hereinafter 'trial Court' for the sake of convenience and clarity].

2. Mr.R.Vivekanandan, learned counsel on record for petitioner submits that the petitioner is maternal uncle of victim {to be noted, it is a case of offence under Section 302 of 'the Indian Penal Code, 1860 (Act 45 of 1860)' [hereinafter 'IPC' for the sake of brevity]} and he has also deposed as PW1 in the trial Court.

3. Be that as it may, learned counsel submits that in the light of *Mallikarjun Kodagali* case law [*Mallikarjun Kodagali Vs. State of Karnataka and others reported in (2019) 2 SCC 752*] leave is really not



necessary as the petitioner qualifies as a 'victim' within the meaning of Section 2(wa) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.PC' for the sake of brevity and clarity]. Section 2(wa) of Cr.PC reads as follows:

2. Definitions.- In this Code, unless the context otherwise requires, -

(a) to (w)

'(wa) "Victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir.'

4. Adverting to the aforementioned provision, learned counsel submitted that a person who suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged will also qualify as a victim. Elaborating on this, learned counsel submitted that the term 'Injury' has been defined under Section 44 of IPC and the same reads as follows:

'44. "Injury" - The word "Injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.'



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5. It was emphasised that any harm to any person qua body, mind or reputation would also be injury within the meaning of Section 44 of IPC. Loss of his nephew would certainly be injury qua mind but we hasten to add (though obvious) that this is no expression of opinion on merits.

6. On the facts and circumstances of the case, we find that the submissions are acceptable and therefore, we deem it appropriate to dispose of the captioned CrI.MP as closed saying the same is unnecessary.

Captioned CrI.MP is disposed of as closed.

[M.S.,J.] [R.S.V.,J.]
23.08.2023

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M.SUNDAR, J.,
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R.SAKTHIVEL, J.,

mk

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