



Crl.O.P.(MD)No.10561 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.O.P.(MD)No.10561 of 2023

in

CRL.A.(MD)SR.No.28242 of 2021

The Inspector of Police,

Kottar Police Station,

Kanniyakumari District.

(Crime No.288 / 2007)

... Petitioner / Appellant

Vs.

1.Rubesh @ Sahaya George Rubesh

2.Sahaya Anand

3.Antony Arokiya Jagan

... Respondents / Respondents

PRAYER in CRL.O.P.(MD)No.10561 of 2023: Petition filed under Section 378(3) Cr.P.C., praying this Court to grant leave to file an appeal against the acquittal judgment passed in the Court of Sessions Kanniyakumari Division at Nagercoil in S.C.No.58 of 2008, dated 02.05.2017.

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PRAYER in CRL.A(MD)SR.No.28242 of 2021: Appeal filed under Section 378(i) Cr.P.C., praying this Court to set aside the acquittal rendered in judgment dated 02.05.2017 made in Sessions Case No.58 of 2008 on the file of the Court of Sessions, Kanniyakumari District at Nagercoil.

For Petitioner : Mr.A.Thiruvadikumar,
Additional Public Prosecutor
For Respondents : Mr.G.Ramanathan

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The prosecution has filed this petition seeking leave to challenge the acquittal judgment passed by the Court of Sessions, Kanniyakumari Division at Nagercoil in S.C.No.58 of 2008, dated 02.05.2017.

2.Heard the learned Additional Public Prosecutor for the petitioner / appellant and the learned counsel for the respondents.

3.It is to be noted that as against the very same acquittal judgment made in S.C.No.58 of 2008 on the file of the Court of Sessions, Kanniyakumari Division at Nagercoil, the father of the deceased had already



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filed Crl.A.(MD)No.364 of 2017 in the matter of ***Antony Vs. State***
Represented by the Inspector of Police, Kottar Police Station, Asaripallam
Police Station, Kanyakumari District and others.

4.A co-ordinate Bench of this Court having considered the plea raised in that appeal by a detailed order dated 18.11.2019 was pleased to confirm the judgment of the trial Court by dismissing the said appeal. The relevant portion of the order reads thus:-

“21.In view of the above discussion, we are of the considered opinion that the prosecution has failed to prove the case beyond reasonable doubts. The evidence of P.Ws.1 to 4 has not been corroborated by other evidence that is available on record. Therefore, it will not be safe to set aside the judgment of the Trial Court with the available evidence.

22.In the result, the judgment dated 02.05.2017 made in S.C.No.58 of 2008 by the Sessions Judge, Kanyakumari District at Nagercoil is hereby confirmed. Accordingly, this Criminal Appeal is dismissed.”

5.Since the co-ordinate Bench having considered the points that have been canvassed on behalf of the victim side challenging the acquittal



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judgment had rejected the same and the said appeal was also dismissed by confirming the judgment of the trial Court, we do not find any reason to entertain the proposed appeal presently made by the prosecution side, for which the leave presently sought for in this petition cannot be granted. Accordingly, this Criminal Original Petition seeking leave is liable to be rejected, hence, it is rejected. Consequently, connected Crl.A.(MD)SR.No.28242 of 2021 is also rejected at SR stage itself.

(R.S.K., J.) & (K.K.R.K, J.)

14.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

MYR

To

1.The Sessions Judge,
Kanniyakumari District at Nagercoil.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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R.SURESH KUMAR, J.
AND
K.K.RAMAKRISHNAN, J.
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