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Crl.A(MD)Nos.464, 465 and 480 of 2016



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 21.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD)Nos.464, 465 and 480 of 2016

Kamaraj ... Appellant/
Accused No.1 in Crl.A(MD)No.464 of 2016

Parameswaran ... Appellant/
Accused No.2 in Crl.A(MD)No.465 of 2016

1.Sadagoban
2.Chinnaraj
3.Palaniswamy ... Appellants/
Accused Nos.3 to 5 in Crl.A(MD)No.480 of 2016

vs.

The State represented by,
The Inspector of Police,
Mathoor Police Station,
Pudukkottai District.
(Crime No.146 of 2010). ... Respondent/
Complainant in all Crl.As'

COMMON PRAYER : Criminal Appeals filed under Section 374(2) of Cr.P.C., to call for the records pertaining to the order passed in S.C.No.63 of 2013, dated 17.11.2016, on the file of the learned Additional District and Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai and set aside the same.



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Crl.A(MD)Nos.464, 465 and 480 of 2016



In Crl.A(MD)No.464 of 2016:-

For Appellant : Mr.B.Jameel Arasu
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

In Crl.A(MD)No.465 of 2016:-

For Appellant : Mr.P.Ganapathi Subramanian
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

In Crl.A(MD)No.480 of 2016:-

For Appellants : Mr.P.Ganapathi Subramanian
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been preferred as against the Judgment and conviction made in S.C.No.63 of 2013, dated 17.11.2016, on the file of the learned Additional District and Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai.

2.All the revisions, arising out of the single trial, were taken up together and disposed of by this common order.



3.The case of the prosecution is that on 19.11.2010 at about 05.30 p.m., the defacto complainant received information that the accused were cutting Velikaruvai trees found in the poramboke land comprised in Survey No.287 situated at Rasapatti Kulathukari Kadaiyakudi Kulam. On the said information, the defacto complainant and his subordinate officers went to the place of occurrence and they found two lorries bearing Registration Nos.TN-47-A-7799 and TN-47-B-9427 were loaded with Velikaruvai trees by the accused persons. When it was questioned by the defacto complainant, the accused persons abused them with filthy language and also threatened them with dire consequences.

4.Based on the said complaint, the respondent registered the F.I.R in Crime No.146 of 2010 for the offences under Sections 147, 294(b), 341, 353, 506(ii) and 379 of I.P.C and Section 3 of TNPPDL Act r/w 34 of I.P.C. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance by the trial Court in S.C.No.63 of 2013 on the file of the learned Additional District and Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai.



5.On the side of the prosecution, they had examined P.W.1 to P.W.7 and marked Exs.P.1 to P.9 and the prosecution has also marked M.O.1 to M.O.3 and on the side of the accused, no one was examined and no documents were marked.

6.On perusal of both oral and documentary evidence, the trial Court acquitted all the accused for the offences under Sections 341, 294(b) and 506(ii) of I.P.C and Section 3 of the TNPPDL Act r/w 34 of I.P.C and convicted all the accused for the offences under Sections 147, 353, 379 and 147 of I.P.C and they were sentenced to undergo six months Rigorous Imprisonment each for the offence punishable under Section 147 of I.P.C and they were sentenced to undergo six months Rigorous Imprisonment each for the offence punishable under Section 353 of I.P.C and they were sentenced to undergo three years Rigorous Imprisonment each and to pay a fine of Rs.1,000/- each and in default to undergo three months Simple Imprisonment for the offence punishable under Section 379 of I.P.C. The sentences shall run concurrently. Aggrieved by the same, the present Criminal Appeal.



7.The learned counsel appearing for the appellant in Crl.A(MD)No.464 of 2016 would submit that the first accused died while pending the appeal. Therefore, all the charges as against the Accused No.1/deceased are abated.

8.The learned counsels appearing for the appellants in Crl.A(MD)Nos.465 and 480 of 2016 would submit that the prosecution failed to examine any independent witnesses in order to prove the charges. All are official witnesses and though there was general public, no one was examined by the prosecution to corroborate the evidence of P.W.1. In fact, Velikaruvai Trees were situated in the patta land and the prosecution failed to prove that the trees were cut down from the land belonged to the Government. That apart, now the Honourable Division Bench of this Court directed the Government to remove all the Velikaruvai Trees all over Tamil Nadu. Therefore, unnecessarily, they are facing conviction for non-committing any offence.

9.Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that P.W.1 to P.W.7 categorically deposed that all the accused persons had cut down the trees and about to move after loading into those lorries they were caught hold and lorries were seized along with the wood. Therefore,



the prosecution categorically proved its case and the same does not require any interference by this Court.

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10.Heard the learned counsel appearing on either side and perused the materials available on record.

11.On perusal of the records revealed that all the witnesses are official witnesses and no independent witness was examined by the prosecution in support of the case of the prosecution. Even according to P.W.1, on information, he along with other officials went to the place of crime. They had seen that the accused persons already had loaded the Timber and were about to move. At that juncture, they had caught hold of them. Thereafter, they abused them with filthy language and also prevented them to discharge their official duty. Further, the prosecution also failed to prove that the trees were cut down from the poramboke land comprised in Survey No.287 situated at Rasapatti Kulathukarai Kadaiyakudi Kulam. According to the prosecution case, Accused Nos. 2 and 3 escaped, immediately after they caught hold of the lorries. They are drivers, and the officials only had driven the lorries to their office. On perusal of the records also revealed that where the alleged trees were cut down by the accused was not proved by the prosecution. The prosecution also failed to prove the specific overt



act as against the accused persons to show who cut the trees and whose instructions they cut the trees. According to the case of the prosecution, the first accused was the timber merchant and now, he died. The other accused persons are drivers and coolies. Therefore, there is no point in convicting Accused Nos.2 to 5. That apart, the prosecution failed to examine any independent witness to corroborate the evidence of P.W.1 to P.W.3 and in toto the prosecution miserably failed to prove its case beyond any doubt. Hence, the entire conviction and sentence cannot be sustained as against Accused Nos.2 to 5 and it is liable to be set aside.

12.The appellant/Accused No.1 in Crl.A(MD)No.464 of 2016 died while pending the appeal, therefore, all the charges as against the deceased Accused No.1 are abated and Crl.A(MD)No. 464 of 2016 is dismissed as abated.

13.Accordingly, the Judgment made in S.C.No.63 of 2013, dated 17.11.2016, on the file of the learned Additional District and Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai, is set aside and Crl.A(MD)Nos. 465 and 480 of 2016 are allowed. Accused Nos.2 to 5 are acquitted. Bail bond if any executed by Accused Nos.2 to 5 shall stand



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cancelled and a fine amount if paid is ordered to be refunded to
Accused Nos.2 to 5 forthwith.

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

- 1.The Presiding Officer,
Additional District and Sessions Court,
Special Court for EC and NDPS Act Cases,
Pudukkottai.
- 2.The Inspector of Police,
Mathoor Police Station,
Pudukkottai District.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN , J.

ps

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