

CrI.A.(MD)No.8 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.A.(MD)No.8 of 2017

Periyasamy

... Appellant

versus

1. M.Sakthivel
2. K.Sakthivel
3. S.Dirairaj
4. Krishnamourthy
5. P.O.Manimuthu
6. Senthil @ Senthilkumar
7. M.Rasu

... Respondents

Criminal Appeal filed under Section 378 of Criminal Procedure Code, against the Judgment of acquittal passed by the Principal Sessions Court, Trichy District, in S.C.No.110 of 2005, dated 31.07.2014.

For Appellant : No appearance

For Respondents : Mr.R.M.Sivakumar

JUDGMENT

This appeal is arising out of the Judgment of acquittal passed by the Principal Sessions Court, Tiruchirappalli in S.C.No.110 of 2005, dated 31.07.2014.



2. The defacto complainant filed a private complaint before the learned Judicial Magistrate No.II, Kulithalai, and the same was committed to the Court of Sessions, Karur, considering the nature of offence alleged as against the respondents for the offences under Sections 147, 148, 447, 427, 307 and Section 307 r/w. 149 IPC. In conclusion of trial, the trial Court, by its Judgment dated 31.07.2014, acquitted all the accused that the prosecution has not proved its case beyond reasonable doubt. As against the Judgment of acquittal dated 31.07.2014, this Criminal Appeal has been filed by the defacto complainant.

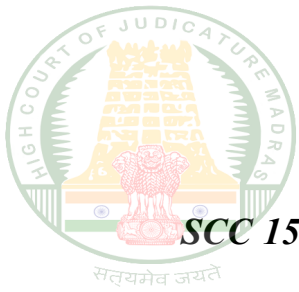
3. When this appeal was taken up for hearing on 04.02.2025, an adjournment was sought by the appellant's counsel for producing certain documents. Therefore, the appeal was adjourned to 04.03.2025. Thereafter, when the appeal came up for hearing on 04.03.2025, the learned counsel for the appellant has circulated a letter that he is withdrawing his appearance as the appellant has not co-operated with him by furnishing the documents. Therefore, this Court directed the Registry to list this appeal in the name of the appellant on 01.04.2025. Since there was no representation for the appellant on 01.04.2025, the appeal was directed to be listed under the caption for dismissal today. Even today, there is no representation for the appellant.



4. The learned counsel appearing for the respondents is also not ready with the case. Therefore, this Court perused the records.

5. The appellant/defacto complainant was working as Salesman in a wine shop at Neithalur Village, Kulithalai, Karur District. On 03.03.2002 at around 8.00 p.m., the accused 1 to 3 and 6 visited the bar to purchase liquor bottles. At that time, there was a clash between the owner of the bar and the accused persons. In that incident, the accused persons were said to have caused damage and also caused injuries to the owner of the bar one Thangavel. The accused Nos.1 and 2 were also injured in the course of incident. The appellant was said to have sustained injury and admitted in the Government Hospital, Thanjavur, on the next day at 4.00 p.m. and surrendered before the Judicial Magistrate No.III, Thanjavur, on 07.03.2022. The appellant was also prosecuted for the criminal case. Thereafter, this private complaint was filed. Considering the unexplained injury caused to the accused persons, the trial Court has acquitted all the accused persons from the charges. As against the Judgment of acquittal, this Criminal Appeal has been filed.

6. Since this appeal is filed as against the Judgment of acquittal, it is necessary to bear in mind the principles governing the appeal against acquittal, as laid down by the Hon'ble Supreme Court in *V.Sejappa v. State [(2016) 12*



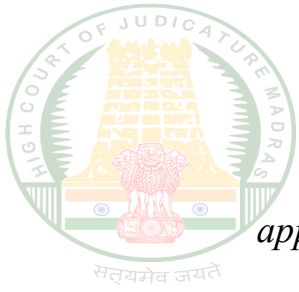
SCC 150], wherein, the Hon'ble Supreme Court has followed its own decision in **Muralidhar v. State of Karnataka [(2014) 5 SCC 730]**. The guidelines issued in the said decision are extracted hereunder:

“23. ... (i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court;

(ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;

(iii) Though, the powers of the appellate court in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanour of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and

(iv) Merely because the appellate court on reappreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the



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appellate court in the judgment of the trial court."

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7. Considering the ratio laid down by the Hon'ble Supreme Court in ***V.Sejappa v. State [(2016) 12 SCC 150]*** and the available evidence, this Court is not inclined to entertain this appeal. Accordingly, this Criminal Appeal is dismissed.

02.04.2025

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To

1. The Principal Sessions Court,
Trichy District.



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B.PUGALENDHI, J.

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