

A. Stephen Raj Vs. the State

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Court : Chennai

Decided On : Jan-02-2013

Judge : M.Venugopal

Appellant : A. Stephen Raj

Respondent : The State

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

02. 01/2013 CORAM THE HONOURABLE MR.JUSTICE M.VENUGOPAL
CRL.R.C.(MD)No.648 of 2012 A. Stephen Raj ... Petitioner Vs The State rep. by
The Inspector of Police Chinnakovilankulam Police Station Tirunelveli District. ...
Respondent PRAYER Criminal Revision Petition filed under Sections 397 read
with and 401 (1) of Cr.P.C., to call for the records pertaining to the judgment
delivered by the learned Judicial Magistrate, Sankarankovil, Tirunelveli District in
C.C.No.487 of 2011 vide his judgment dated 20/9/2012 and set aside the same in
so far as it relates to the observation of the Learned trial Judge as "Benefit of
Doubt" and consequently the petitioner may be declared as "Honorably Acquitted"
in the above said case. !For Petitioner ... Mr.R.Anand ^For Respondent ...
Mr.P.Kandasamy, GA (Criminal Side) - - - - :ORDER The Petitioner/sole Accused
has projected the instant Criminal Revision Petition as against the Judgment dated
20/9/2012 in C.C.No.487 of 2011 passed by the Learned Judicial Magistrate,
Sankarankoil, Tirunelveli District.

2. The Learned Judicial Magistrate, Sankarankoil, while delivering the Judgment in C.C.No.487 of 2011, on 20/9/2012, has inter alia observed that "witnesses P.Ws.1 to 3 have turned hostile and also to prove the offences under Sections 294 (b), 323 and 506 (i) IPC, no other witnesses have been examined and further that P.Ws.1 and 2 in their evidence have not stated that the Petitioner/Accused has spoken in indecent words with a view to harm the reputation and also they have not spoken about the simple injury being caused by the Petitioner/Accused with his hands and that apart, they have also not deposed that the Petitioner/Accused has criminally intimidated them with a view to murder them and resultantly, has come to the conclusion that the charges levelled against the Petitioner/Accused under Sections 294 (b), 323 and 506 (i) IPC have not been proved and consequently, acquitted the Petitioner/Accused under Section 255 (1) of Cr.P.C.

3. The Learned Counsel for the Petitioner/Accused urges before this Court that the trial Court has acquitted the Petitioner/Accused by giving him the benefit of doubt and in fact, the trial Court should have acquitted the Petitioner/Accused honourably in view of the fact that the Respondent/Prosecution has not proved the charges against the Petitioner/Accused beyond all reasonable doubt.

4. Advancing his arguments, the Learned Counsel for the Petitioner/Accused submits that the Petitioner/Accused has passed all the examination and selected for the post of Second Grade Police Constable and unless he has been acquitted honourably, his future employment prospects will be in bleak and his future carrier would be affected seriously.

5. That apart, it is the contention of the Learned Counsel for the Petitioner/Accused that P.Ws.1 to 3 have not spoken anything against the Petitioner/Accused in his evidence and since the acquittal based on 'benefit of doubt' passed by the trial Court in C.C.No.487 of 2011 operates as a stigma, the same will have to be set aside by this Court, to prevent an aberration of Justice and consequently, this Court may allow the Criminal Revision Petition.

6. In this connection, this Court pertinently points out that in the order dated 1/4/2008 in CrI.R.C (MD) No.369 of 2008 between GANESAN AND ANOTHER Vs. SUB-INSPECTOR OF POLICE AND ANOTHER, wherein the Learned Single

Judge has held as under:- "A careful perusal of the deposition of all these witnesses would go to show that no witness has said anything about these two accused. Not even their presence has been spoken to by any of the witnesses. When that be so, the learned Sessions Judge should have segregated these two accused and to have acquitted them honourably and not on giving benefit of doubt as it was down in the case of other accused against benefit of doubt as it was down in the case of other accused against whom there is some evidence. The learned counsel would rely on the judgment of this Court in SOMASUNDARAM Vs. THE STATE THROUGH THE INSPECTOR OF POLICE, MELUR POLICE STATION, MADURAI (CRL.R.C.No.289 of 2008 dated 28/2/2008), wherein in a similar case, the learned Single Judge of this Court after referring to various judgments of this Court as well as the Hon'ble Supreme Court has expunged the remarks." 7. This Court has heard the arguments of the Learned Counsel for the Petitioner/Accused and also the Learned Government Advocate (Criminal Side).

8. At this juncture, it is relevant for this Court to make a significant mention that in paragraph 10 of the Judgment in C.C.No.487 of 2011 dated 20/9/2012 passed by the trial Court, it is observed that P.Ws.1 to 3 witnesses have turned hostile and also that no other witnesses have been examined to prove the offences under Sections 294 (b), 323 and 506 (i) IPC and further, even the affected persons viz., P.Ws.1 and 2 in their evidence have not spoken about the Petitioner/Accused speaking in indecent language, etc. Further, they have not stated that the simple injury has been caused by the Petitioner/Accused with his hands and also the criminal intimidation with a view to commit murder has also not been established by their evidence and consequently, acquitted the Petitioner/Accused holding that the charges levelled against him under Sections 294 (b), 323 and 506 (i) IPC have not been proved beyond all reasonable doubt.

9. The main contention advanced on behalf of the Petitioner/Accused is that because of the acquittal of the Petitioner/Accused in C.C.No.487 of 2011 by means of Judgment dated 20/9/2012, based on 'Benefit of Doubt', the same operates as a stigma and the said finding rendered by the trial Court, affects the future employment prospects of the Petitioner/Accused. At this stage, the Learned Counsel for the Petitioner/Accused brings it to the notice of this Court that the

Superintendent of Police, Tirunelveli District, in his communication dated 12/12/2012, addressed to the Petitioner/Accused has among other things stated that since the Petitioner/Accused earlier conduct has not been satisfactory, he has not been appointed as Second Grade Constable.

10. In view of the fact that the witnesses P.Ws.1 to 3 have turned hostile etc., and also the trial Court has come to a resultant conclusion that the offences under Sections 294 (b), 323 and 506 (i) IPC in respect of the Petitioner/Accused have not been proved beyond all reasonable doubt and finally, acquitting him under Section 255 (1) of Cr.P.C., this Court is of the considered view that the acquittal of the Petitioner/Accused based on 'Benefit of Doubt' by the trial Court in C.C.No.487 of 2011 by virtue of the Judgment dated 20/9/2012 can be modified to one of 'Honourable Acquittal. Viewed in that perspective, the Criminal Revision Petition is allowed and the finding rendered by the trial Court that the Revision Petitioner/Accused is acquitted based on benefit of doubt "is modified to the effect that he shall stand acquitted Honourably". mvs. To 1. The Judicial Magistrate, Sankarankovil, Tirunelveli District 2. The Inspector of Police Chinnakovilankulam Police Station Tirunelveli District.

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