

Sriram Ganapath Vs. State Represented by

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Court : Chennai

Decided On : Jan-04-2013

Judge : M.Venugopal

Appellant : Sriram Ganapath

Respondent : State Represented by

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

04. 01/2013 CORAM THE HONOURABLE MR.JUSTICE M.VENUGOPAL CRL.RC(MD)No.1 of 2013 Sriram Ganapathy .. Petitioner/Accused Vs State represented by The Inspector of Police, Thirunagar Police Station, (In Crime No.714/2009), Madurai. .. Respondent/Complainant Prayer Criminal Revision Case has been filed under Section 397 r/w 401 of the Code of Criminal Procedure to call for the records in C.C.No.363 of 2010 dated 11.07.2012 on the file of the Judicial Magistrate No.6, Madurai and set aside the finding of the 'Benefit of Doubt' pronounced in the Judgment and grant the relief of Honourable Acquittal. !For Petitioner ... Mr.A.John Vincent ^For Respondent ... Mr.P.Kandasamy Government Advocate (Crl.Side) :ORDER The Petitioner/Accused has preferred the instant Criminal Revision Petition as against the Judgment dated 11.07.2012 in C.C.No.363 of 2010 passed by the Learned Judicial Magistrate not VI, Madurai.

2. The Learned Judicial Magistrate not VI, Madurai while passing the Judgment in C.C.No.363 of 2010 on 11.07.2012 has among other things observed that the

charges levelled against the Petitioner/Accused under Sections 454 and 380 of the Indian Penal Code have not been established by the prosecution beyond all reasonable doubt and resultantly found him not guilty and consequently acquitted him under Section 248(1) of the Code of Criminal Procedure.

3. The Revision Petitioner/Accused has assailed the Judgment in C.C.No.363 of 2010 dated 11.07.2012 passed by the Learned Judicial Magistrate not VI, Madurai as an aggrieved person before this Court by filing the instant Criminal Revision Petition.

4. The Learned Counsel for the Petitioner/Accused submits that the Petitioner/Accused has come out successfully in the examination conducted on 23.08.2012 by the Tamil Nadu Uniformed Services Recruitment Board for the Post of Grade-II Police Constable and even though the trial Court has acquitted the Petitioner/Accused based on 'Benefit of Doubt', the same operates as a stigma against the Petitioner/Accused in seeking employment prospectus etc.

5. Furthermore, it is the submission of the Learned Counsel for the Petitioner/Accused that inasmuch as the Petitioner/Accused has been acquitted by the trial Court based on 'Benefit of Doubt' in C.C.No.363 of 2010 by virtue of Judgment dated 11.07.2012, the authorities concerned would not select the Petitioner/Accused by citing Rule 14(b)(iv) of the Tamil Nadu Special Police Subordinate Service Rules.

6. The Learned Counsel for the Petitioner in the present Revision urges before this court that 'Honourable Acquittal' may be accorded to the Petitioner so that the Petitioner/Accused can seek prospects of employment in his carrier in the near future.

7. At this stage, this Court pertinently points out that in CrI.RC(MD)No.1002 of 2008 dated 13.07.2010 between V.Navaneethakrishnan Vs. The State through, the Inspector of Police, Sankarankovil Police Station, Tirunelveli District wherein at paragraph Nos.5 to 7, it is observed as follows:- "5. The Learned Counsel for the Petitioner in support of his contention, would place reliance upon a decision of this Court in CrI.R.C.No.289 of 2008, Somasundaram Vs. The State, dated

28.02.2008, wherein after referring and following a decision of this Court, expunging the findings leading to acquittal of the petitioner, concluded that the petitioner has to be acquitted honourably. A Division Bench decision followed by the learned Judge reported in 2005(5) CTC- 672 (The Deputy Superintendent of Police, Sriperumbudur Sub Division, I/C, Chengalpattu Sub Division, Kancheepuram District Vs. W.D.Sekaran and another, is as follows:- "In the light of our discussion, it is clear that it is not axiomatic that in all cases where the criminal proceedings based on the very same set of facts ended in acquittal, the departmental action should not be proceeded with. As rightly observed by the earlier Division Bench of this Court in State of Tamil Nadu Vs. H.A.Munaf and another, 2002(3) LLJ 66.cited supra, if the acquittal in the criminal proceedings is not a honourable one, it is always open to proceed with the departmental proceedings. The Tribunal has not gone into the above relevant aspects and committed an error in quashing the charge memo at the threshold." 6. The aforesaid decision in Somasundram case has been subsequently followed by this Court in another case in Crl.RC.No.400 of 2008 (Kasinathan Vs. The State through the Sub-Inspector of Police, Checkanurani Police Station, Madurai District), dated 27.08.2008 wherein it is observed as follows:- 7. On a perusal of entire records and the judgment of the trial Court, this Court could not find any material against the petitioner. These circumstance of this case warrant expunging of findings available in the trial Court judgment as to the granting benefit of doubt for acquittal of this petitioner. In consonance with the earlier view of this Court in this regard and as to the circumstances available in this case, I am of the considered view that the petitioner has to be acquitted honourably and acquitted as such the findings of the Court below as regards acquittal on the ground of benefit of doubt stands expunged. The revision deserves to be allowed and it is accordingly allowed." 9. On going through the Judgment dated 11.07.2012 in C.C.No.363 of 2010 passed by the Learned Judicial Magistrate not VI, Madurai it is quite evident that witnesses P.Ws.4 and 5 have turned hostile. P.W.6 has also turned hostile before the trial Court. Further, the trial Court in paragraph No.12 of the Judgment in C.C.No.363 of 2010 dated 11.07.2012 has observed that witnesses P.Ws.1 and 2 have not seen the occurrence directly and after hearing about the occurrence and after hearing the noise, they have come to the

occurrence place. Ultimately, the trial Court after scrutinising the entire oral and documentary evidence available on record has come to a clear conclusion that the charges levelled against the Petitioner/Accused under Sections 454 and 380 of the Indian Penal Code have not been proved beyond all reasonable doubt and acquitted the petitioner based on 'Benefit of Doubt'.

10. In view of the aforesaid circumstances, as far as the present case is concerned, this Court comes to an irresistible conclusion that the Judgment of Acquittal passed by the trial Court in C.C.No.363 of 2010 dated 11.07.2012 in respect of the Revision Petitioner/Accused that the prosecution has not proved charges against him under Sections 454 and 380 of the Indian Penal Code beyond all reasonable doubt can be modified to one of 'Honourable Acquittal' to prevent an aberration of Justice. Consequently, the Criminal Revision Petition is allowed and the finding rendered by the trial Court insofar as the Petitioner/Accused is concerned, that he is acquitted on 'Benefit of Doubt' is modified to the effect that he shall stand Acquitted Honourably. ps To The Judicial Magistrate not VI, Madurai.

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