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Cr1.A.No. 1081-1083 OF 1998

ITEM No.104

Court No. 10

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal Nos. 1081-1083 of 1998

R. SOUNDARAPANDIAN Appellant (s)

VERSUS

STATE OF TAMIL NADU & ANR.Respondent (s)

(With office report)

Date : 24/03/2004 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)Mr. A.T.M. Ramanujam,Sr.Adv.
Mr. S. Nanda Kumar,Adv.
Mr. L.K. Pandey,Adv.

For Respondent (s)Mr. Subramonium Prasad,Adv.

Mr. Anurag Sharma,Adv.
Mr. Gopal Singh,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard the learned counsel for the parties from 12.30 p.m. to 12.50 p.m.

The criminal appeals are allowed.

The appellant is discharged from the liability of bail bonds.

[T.I. Rajput] [S. Krishnan]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1081-1083 OF 1998

R. Soundarapandian ...Appellant(s)

Versus

State of Tamil Nadu & Anr. ...Respondent(s)

O R D E R

Heard the learned counsel for the parties.

The sole appellant was charged and tried for offences under Sections 304-B and 498-A of the Indian Penal Code [hereinafter referred to as "I.P.C."] The trial court, by judgement dated 20th September, 1993, acquitted the appellant of the charge under Section 304-B I.P.C. but convicted him under Section 498-A I.P.C. and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rupees one thousand; in default, to suffer imprisonment for a period of three months. The order of acquittal of the appellant under Section 304-B I.P.C. attained finality as neither any appeal was preferred against it by the State nor the matter was challenged at the instance of the informant by filing a revision application either before the Sessions Court or the High Court. So far as the appellant is concerned, against his conviction under

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Section 498-A I.P.C., he preferred an appeal before the Sessions Court. The appellate court, after threadbare discussion of the evidence, allowed the appeal, set aside the conviction of the appellant under Section 498-A I.P.C. and acquitted him of the said charge. Aggrieved there by, the State of Tamil Nadu preferred an appeal and P.W.2, mother of the victim, filed a revision application before the High Court of Madras challenging the said order of acquittal. The High Court, by the impugned judgement, allowed the revision application as well as the appeal, set aside the order of acquittal passed by the appellate court and restored the order of conviction of the appellant under Section 498-A I.P.C., as recorded by the trial court. Hence, these appeals by special leave.

We have been taken through the judgements rendered by the High Court, appellate court and the trial court. We find that the order of acquittal has been recorded after a detailed discussion of evidence adduced on behalf of the prosecution. The view taken by the appellate court is a possible one and cannot be said to be perverse in any manner. It is well settled that, in an appeal against an order of acquittal, appellate court can upset the order of acquittal only if it comes to the conclusion that the same is perverse and not otherwise. In the present case, we are of the opinion that the order of acquittal rendered by the appellate court was not perverse one, as such the High Court was not justified in interfering with the same.

Accordingly, the criminal appeals are allowed, the impugned order rendered by the High Court is set aside and that passed by the appellate court is restored.

We have been informed that pursuant to the order of

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conviction, the appellant had deposited the amount of fine awarded by the trial court. In view of the acquittal of the appellant, we direct that the fine realised from the appellant shall be refunded to him. The appellant, who is on bail, is discharged from the liability of bail bonds.

.....J.

[B.N. AGRAWAL]

.....J.

[Dr. AR. LAKSHMANAN]

New Delhi,
March 24, 2004.