

IN THE HIGH COURT OF TRIPURA
AGARTALA

CRL. REV.P. No.23 of 2015

Sri Manindra Chandra Das,
son of late Suresh Chandra Das
of Siddhi Ashram, P.S. Amtali,
District- West Tripura

..... **Petitioner**

- V e r s u s -

1. Smt. Shila Rani Das,
wife of Sri Kartik Chandra Das
of Roy Colony, P.S. Amtali,
District- West Tripura

2. The State of Tripura,
represented by the Secretary,
Department of Home,
Government of Tripura,
Agartala, West Tripura

..... **Respondents**

BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. D.C. Roy, Advocate

For the respondent No.1 : None.

For the respondent No.2 : Mr. A. Ghosh, P.P.

Date of hearing & delivery of
Judgment & Order : **20.04.2015**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr D.C. Roy, learned counsel appearing for the petitioner as well as Mr. A. Ghosh, learned Public Prosecutor for the respondents. None appears for the respondent No.1.

[2] By this petition filed under Section 397 read with Section 401 of Cr.P.C, the judgment and order dated 12.03.2015 delivered in Criminal Appeal No.29 of 2014 by the Sessions Judge, West Tripura Agartala, whereby the judgment and order dated 10.04.2014 by the Sub-Divisional Judicial Magistrate, Bishalgarh, West Tripura delivered in C.R. 22 of 2008 has been affirmed and the appeal filed by the complainant, the petitioner herein, has been dismissed.

[3] Mr. Roy, learned counsel appearing for the petitioner has advanced two grounds of objection. According to Mr. Roy, learned counsel, along with the appeal a copy of the judgment and decree dated 10.06.2009 delivered in Title Suit No.48 of 2009 was produced with an application under Section 391 of the Cr.P.C for admitting that judgment as an additional evidence but that prayer was not considered by the Sessions Judge. Mr. Roy, learned counsel has submitted while expositing the ground of objection that from appreciation of the oral evidence so produced by the complainant it would be apparent that the petitioner is the son of Suresh Chandra Das, since deceased but the questioned document, the Survival Certificate, issued by the Sub-Divisional Magistrate, Bishalgarh, has not shown him as the legal heir of said Suresh Ch. Das and that Survival Certificate has been obtained to cheat him and also in exercise of fraud on the Government authority. Mr. Roy, learned

counsel has not questioned the charge that was framed under Sections 420/471 of the IPC.

[4] On appreciation of the testimonies of the witnesses so produced by the complainant, the petitioner herein and the accused person, the trial court dismissed the complaint by the order dated 10.04.2014 observing that:

“None of the authorities involved in issuance of alleged survival certificate(tehsildar, Deputy collector and SDM) was called as a witness to adduce evidence in favour of the complainant that they were misled and cheated by the accused while inquiring and considering the matter of granting of a survival certificate at the instance or application of the accused.”

[5] It has also not been disputed by the complainant that such survival certificate has been issued by the Sub-Divisional Magistrate, Bishalgarh, but he did not approach the Sub-Divisional Magistrate for correcting the said survival certificate if he had any grievance against it. It has been further observed by the trial court that there is no evidence, oral or documentary, to show that the accused used that alleged survival certificate, obtained by her allegedly by cheating or committing fraud upon the Government authorities to sell out any part of the land. In the appeal, all these findings have been affirmed by the Sessions Judge, West Tripura, Agartala. Apart that the Sessions Judge has observed that until and unless the survival certificate is proved not to be genuine and it was obtained by illegal means, no case of cheating or affecting the complainant injuriously by selling out the property of Suresh Ch.

Das can be made out. Fate of the case was virtually decided when the complainant got the name of the issuing authority of the survival certificate deleted. That person was originally impleaded as the accused person in the case. Even the complainant failed to examine him as the witness.

[6] It has been further observed that to prove the charge under Section 471 of the I.P.C. the basic ingredient that has to be proved is that the survival certificate that was issued by the competent authority was forged one. It has transpired from the records that the questioned document, the survival certificate has not been produced before the trial Court, neither has it been proved that the said survival certificate is either forged or obtained for purpose of cheating the complainant and hence, this Court does not find any merit in this revision petition and accordingly, the same is dismissed.

JUDGE

Sujay