

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.Rev.Pet.No. 1227 of 2015 ()

ORDER IN MP 4033/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-III, THRISSUR DATED 11-04-2014

REVISION PETITIONER/PETITIONER/COMPLAINANT:

VARUNNI, AGED 60 YEARS
S/O.THERATTIL PAILIKUTTY, OLLUR VILLAGE
PADAVARAD DESOM, THRISSUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.K.B.GANGESH

RESPONDENTS/RESPONDENTS/STATE & ACCUSED:

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1. STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM - 682 031.
 2. RAMADAS, AGED 47 YEARS
S/O.LATE BALAN, THOTTIPARAMBIL HOUSE, CHOVUR VILLAGE
PERUMBILLISSERY DESOM, THRISSUR TALUK
THRISSUR DISTRICT - 680 001.

R BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl. R.P. No. 1227 of 2015

Dated this the 6th day of October, 2015.

ORDER

The revision petitioner is the complainant in M.P.No.4033 of 2013 on the files of the court of the Judicial Magistrate of First Class-III, Thrissur, who in this revision petition challenges the order passed by the court below dismissing the complaint under Section 203 Cr.P.C.

2. Heard the learned counsel for the revision petitioner.

3. The case of the revision petitioner is that the revision petitioner entered into an agreement for sale in respect of the property covered by a Will on 24.08.2012 for a total consideration of ₹9.25 Crores with the second respondent. Towards the advance consideration, an amount of ₹1 Crore was paid by the revision petitioner. However, later on, it was realised that there was dispute between the second respondent and his sister with respect to the said property.

Civil suits are also pending before the court in respect of the said property.

4. According to the revision petitioner, the property was agreed to be sold by the second respondent on the strength of the Will. The said Will was disputed by the sister of the second respondent before the court. There is no allegation that the said suit was decided against the second respondent. The revision petitioner filed a suit against the second respondent herein in respect of the same property as O.S.No.945 of 2013 on 20.8.2013 and as per the direction of the court, the second respondent had furnished bank guarantee for an amount of ₹1.09 Crores before the court on 30.8.2013.

4. The court below found that the allegations in the complaint would constitute only a civil liability. The court below correctly observed that in order to attract the offence under Section 420 IPC, there must be intention to deceive at the inception of the transaction. There should be fraudulent inducement on the part of the accused at the inception of the

transactions, to part with valuable security.

5. The court below after recording the sworn statement of the revision petitioner and conducting enquiry under Section 202 Cr.P.C, correctly found that the allegations in the complaint and the material collected under Section 202 Cr.P.C were not sufficient to constitute the ingredients of the offence under Section 420 IPC and in the said circumstances, the court below found that there was no *prima facie* case to proceed against the second respondent. In the said circumstances, the court below correctly dismissed the complaint under Section 203 Cr.P.C.

Having gone through the relevant inputs, I do not find any reason to hold that the order impugned is not legal, proper and correct, warranting interference by this Court.

In the result, this revision petition stands dismissed.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl.