

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.9.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Petition No. 958 of 2015

V.V.Ramasamy

.. Petitioner

Versus

1. Mr.Ajay Kosh

2. Mr.S.Radhakrishnan

.. Respondents

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. against the order dated 15.4.2015 made in C.M.P.No.4462 of 2010 on the file of the Judicial Magistrate No.7, Coimbatore.

For Petitioner : Mr.P.Tamilavel

ORDER

The petitioner herein has preferred complaint under Section 200 of Cr.P.C. for offence under Section 420 of IPC and by order dated 04.6.2010, the learned Judicial Magistrate No.VII, Coimbatore, dismissed the complaint. Against the said order, the petitioner/complainant filed Crl.RC.No.514 of 2011 and this Court, by order dated 17.10.2011, while setting aside of the order dated 04.6.2010 passed by the learned Judicial Magistrate No.VII, has remitted the matter back to the Court below for fresh consideration. As per the direction of this Court, the learned Magistrate, after re-appreciating the facts and evidence, has dismissed the petition holding that the matter pertains to civil dispute. Aggrieved by the said order, the petitioner has filed the present revision.

2. The main ground raised by the petitioner is that the observation of the Court below that there was no proof that the petitioner/complainant transferred his properties to the respondents as promised in the agreement dated 14.4.1998 is not correct. According to the petitioner, the land has been transferred to the respondent as stated in the agreement and the sale deed was also executed on 20.4.1998 but after receiving the property, the respondents had not paid any single money to the petitioner and the same was not considered by the Court below.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On a careful perusal of the order of the Court below, it is seen that earlier the petitioner has filed the very same complaint and the same was dismissed. Challenging the same, the petitioner has approached this Court by way of revision in CrI.RC.No.514 of 2011 on the ground that the learned Magistrate has not given any reasons for dismissing the complaint. Therefore, this Court, by order dated 17/10/2014, while setting aside the said order, has directed the Judicial Magistrate to consider the matter afresh. Based on the said direction, the Court below passed the detailed order dated 15.4.2015 stating that the petitioner has not made out any case to attract the offence of cheating.

5. As rightly pointed out by the Court below, there is no evidence to show that the property was delivered or conveyed to the accused person as agreed. Further, according to the petitioner, the alleged sale deed was executed in the year 1998 whereas, first time, the petitioner has given complaint only in the year 2009. From the year 1998 to 2009, the petitioner has not even sent any notice calling upon the accused to pay the alleged amount. Therefore, the Court below has categorically held that no document has been produced to show that the sale deed was executed without consideration. Now, the only allegation of the petitioner is that the accused did not pay a sum of Rs.9,00,000/-. As rightly pointed out by the Court below, the allegation now raised by the petitioner is purely civil in nature.

6. Moreover, as per the Judgment of the Hon'ble Supreme Court in PRIYANKA SRIVASTAVA V. STATE OF UTTAR PRADESH (2015 (6)SCC 287) while preferring complaint, an affidavit should also be accompanied and the same has not been done at the time when the complaint was presented.

7. In view of such circumstances, I do not find any reason to interfere with the reasoned order of the Court below. The Criminal Revision is dismissed.

सत्यमेव जयते

-s/d-

Assistant Registrar(CSIII)

dt:5/10/2015

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Sub-Assistant Registrar

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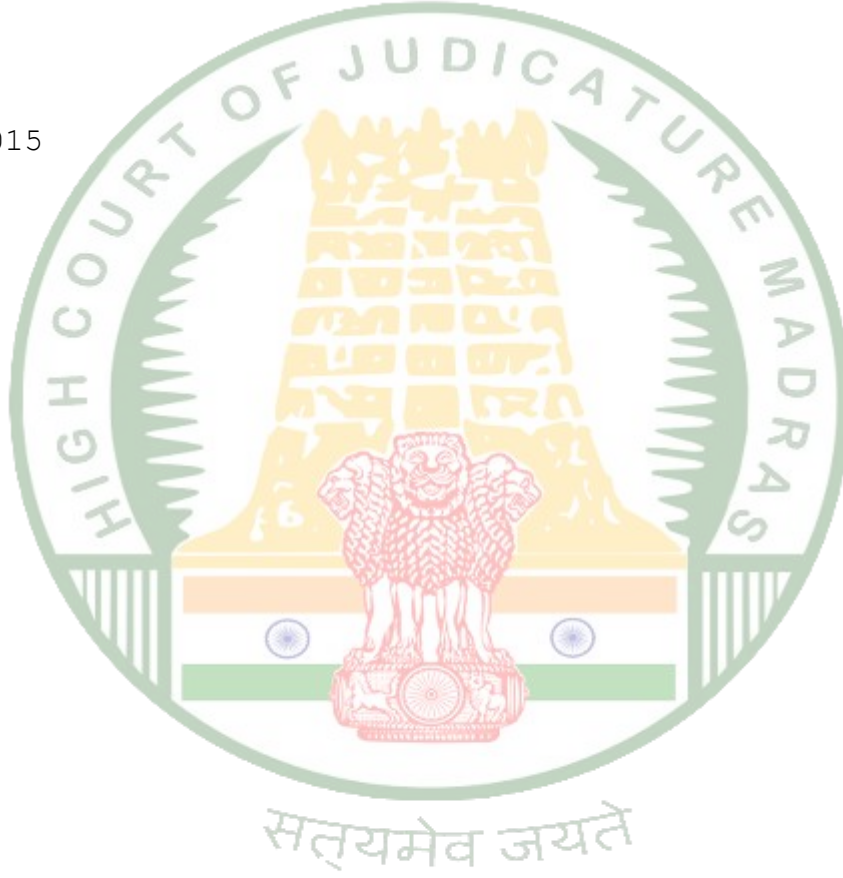
To

1. The Judicial Magistrate No.7, Coimbatore.

+1 cc to Mr.P.Tamilavel Advocate sr.49555

Crl RC No. 958 of 2015

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