

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.199 of 2010
and
M.P.No.1 of 2010

Karpagam

... Petitioner/Appellant/
Single Accused

Vs.

State rep. by
The Inspector of Police
H1, Old Washermenpet Police Station
Chennai

... Respondent/Respondent/
Complainant

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. to call for the records and set aside the judgment passed in C.A.No.1 of 2009, dated 30.07.2009 on the file of III Additional Judge, City Civil Court at Chennai confirming the conviction and modifying the sentence imposed in C.C.No.5894 of 2005, dated 10.12.2008 on the file of the XV Metropolitan Magistrate, George Town, Chennai and acquit the petitioner.

For Petitioner : Mr.S.Thirunavukkarasu

For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

ORDER

The petitioner is the accused in C.C.No. 5894 of 2005 on the file of XV Metropolitan Magistrate, George Town, Chennai and she has been convicted for the offence under Section 420 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- and in default, to undergo simple imprisonment for two weeks. As against the conviction and sentence imposed, the petitioner filed Crl.Appeal No.1 of 2009 and the first appellate Court, by judgment dated 30.07.2009, modified the same by reducing the sentence of conviction to three months and in so far as the fine amount is concerned, confirmed the judgment of the Trial Court. Aggrieved by the same, the present Criminal Revision Case is filed.

2. The case of the complainant is that he participated in chits conducted by the accused and he had taken two chits for Rs.1,00,000/-each. The accused had returned only a sum of Rs.70,000/- and thus cheated her. Hence, a case has been registered under Section 420 of IPC before the Inspector of Police, H1, Police Station, Chennai. When the same was taken cognizance by the learned XV Metropolitan Magistrate, George Town, Chennai, he had convicted the accused and sentenced him to undergo one year rigorous imprisonment and to pay fine of Rs.5,000/- in default to undergo two months simple imprisonment. Aggrieved against the same, the accused preferred an appeal in C.A.No.1 of 2009 and the learned III Additional Judge, Chennai had modified the same by reducing the sentence of one year into three months on the ground that the accused is a lady. Being not satisfied with the modification, the accused had preferred this Criminal Revision.

3. Learned counsel appearing for the petitioner/accused would contend that the petitioner had no intention to cheat the defacto complainant and she had conducted only a chit and now she is aged 55 years she being a lady has to look after her family and hence prayed for leniency in awarding the sentence.

4. Learned Government Advocate (Criminal side) would submit that the Appellate Court after analysing the oral and documentary evidence had reduced the sentence to three months from one year and hence, no further interference is required in this revision.

5. Heard both sides and perused the records.

6. On a careful consideration of the judgments passed by both the courts below it is seen that the accused had cheated the complainant. However, taking into consideration that the accused is a lady, learned Appellate Court had modified by reducing the sentence into three months from one year. In such circumstances, I do not find any reason to interfere with the conviction ordered by the Courts below.

7. At this juncture, since the learned counsel for the petitioner/accused prayed this Court to show mercy in the matter of awarding sentence by taking into account the fact that the petitioner is aged 55 years and she being a lady, I am of the view the sentence of rigorous imprisonment imposed by the appellate court for a period of three months can be modified.

8. Accordingly, the conviction ordered by both the courts are confirmed. However, the fine amount awarded by the Trial Court and confirmed by the appellate court to pay fine of Rs.5,000/- is modified into fine of Rs.10,000/- in lieu of undergoing sentence for a period of three months.

9. With the above modification, the Criminal Revision Case is partly allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional Judge,
City Civil Court, Chennai.
2. The XV Metropolitan Magistrate,
George Town, Chennai.
3. The Public Prosecutor,
High Court, Madras
4. The Inspector of Police,
Old Washermenpet Police Station,
Chennai.

PUR(CO)
CA(22/02/2016)

Crl.RC No.199 of 2010

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