

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No.13587 of 2009

State represented by
Inspector of Police,
C.C.I.W. - C.I.D.,
Coimbatore City
Unit.
(Crime No.2/2003)

.... Petitioner/Complainant

vs.

Aru.Palanisamy

... Respondent/Accused No.5

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to allow this petition and set aside the judgment of the lower appellate Court in C.R.P.No.14/2009 dated 20.5.2009 on the file of the Additional District and Sessions Judge, Fast Track Court No.III, Coimbatore confirming the order passed in C.M.P.No.1428 of 2008 dated 29.12.2008 by the Judicial Magistrate Court No.IV, Coimbatore.

For Petitioner : Mr.V.Arul,
Government Advocate (Crl.Side)

For Respondent : Mr.V.R.Appasamy
for M/s.Muthumari Doraisami

O R D E R

The State is the petitioner.

2. The respondent/A.5 in C.C.No.19 of 2005 on the file of the Judicial Magistrate No.IV, Coimbatore filed Crl.M.P.No.1428 of 2008 on the file of the Judicial Magistrate No.IV, Coimbatore and that petition was allowed and the respondent/A.5 was discharged from the charges. Thereafter, the petitioner filed Criminal Revision in C.R.P.No.14 of 2009 before the learned Additional District and

Sessions Judge, Fast Track Court No.III, Coimbatore and the learned Judge the Criminal Revision Petition by order dated 20.5.2009 and aggrieved by the same, the present petition is filed.

3. It is submitted by the learned Government Advocate (Criminal Side) that the Courts below without properly appreciating the charge sheet and the evidence collected during investigation, erred in quashing the proceedings against the respondent. He submitted that the specific case of the prosecution is that A.1 to A.6 entered into a conspiracy and thereby A.1 to A.3 agreed to purchase the property belonging to A.4 for a higher rate with an intention to cheat the society in which A.1 to A.3 were the Directors and for that purpose, a small extent of land belonging to A.4 was sold to A.6 for a higher rate more than the guideline value prevailing at that time and on the basis of sale in favour of A.6, the remaining extent of the property was sold by A.4 to the society represented by A.1 to A.3 and the respondent/A.5 acted as a mediator and he was also involved in the conspiracy. Hence, a case was made out against the respondent for offence under sections 120B r/w 409 and 409 r/w 109 IPC and this was not properly appreciated by the Courts below. He therefore submitted that having regard to the allegation that respondent/A.5, entered into criminal conspiracy with the other accused and motivated A.1 to A.3 to purchase the property at the higher price with the intention of cheating the society, offence was made out and this aspect was not properly appreciated by the Courts below. He therefore submitted that the petition may be allowed.

4. I am unable to accept the contention of the learned Government Advocate (Criminal Side). It is seen from the charge that the property purchased by society represented by A.1 to A.3 belonged to A.4 and A.4 sold a part of his property to A.6 for a higher price with the sole intention of inflating the value, and thereafter, the property was sold to the society represented by A.1 to A.3 and the society fund was misappropriated by A.1 to A.3 and A.5 acted as a mediator in the transaction. It is seen from the order of the trial Court as well as the learned Additional District and Sessions Judge, that no material has been found as adduced by the prosecution regarding conspiracy except the allegation that he acted as a mediator in purchasing the property to the society. Further, it is the specific case of the prosecution that A.4 was the owner of the property and A.1 to A.3 were the Directors of the society and for the purchase of the property on behalf of the society, price was inflated by A.4. In these circumstances, it has not been explained how the respondent/A.5 could have abetted the commission of offence. Considering all these aspects, the learned Judicial Magistrate as well as the Additional District and Sessions Judge, rightly quashed the charge against the respondent.

5. I do not find any infirmity in the orders of the Courts below. The petition is dismissed. The trial Court is directed to dispose of the case within a period of six months from the date of receipt of a copy of this order with respect to the other accused.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

asvm

To

- 1.The Additional District and Sessions Judge,
Fast Track Court No.III, Coimbatore.
 - 2.The Judicial Magistrate Court No.IV,
Coimbatore.
 - 3.The Public Prosecutor,
Madras High Court.
 4. The Inspector of Police, C.C.I.W.- C.I.D.,
Coimbatore City Unit,
Crime No.2/2003
- + 1 cc to Mr.Muthumari Doraisami, Advocate SR.23315

MSM(CO)
EU 30.04.2015

सत्यमेव जयते

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