

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.984 of 2008

ORDER:

1. This revision is filed by the petitioner-complainant against the order dated 2.8.2007 passed by the Additional Munsif Magistrate, Kandukur in C.F.R.No.11350 of 2006.

2. The petitioner-complainant filed a complaint against respondents 1 to 7 alleging that A2-Managing Partner of Venkata Ramana Constructions invited the complainant to join as the sub-contractor under A1's firm. At the invitation of A2, the complainant joined as sub-contractor and A2 offered on behalf of A1 firm and also on behalf of other accused viz., A3 to A5 that the complainant can hold 25% of partnership in the contract work, if he invests the money and performs the work. Both the complainant and A2 entered into agreement and A2 allotted part of the works of Colonies Electrification Project Work in Nellore Division and in the work of System Improvement Projects for supplying power 24 hours to rural areas in Kavali Division. Accordingly, part of the said work was allotted to the complainant as sub-contractor of A1's firm at the estimated cost of Rs.25 lakhs. The said works were completed by the complainant by investing the said amount. During the execution of the said works, A2 paid some amounts to the complainant. A2 was found indebted to the complainant to a tune of Rs.15 lakhs by 10.2.2005. As acknowledgement of the said due amount, A2 issued a letter on behalf of A1's firm. Out of the said due amount, A2 paid an amount of Rs.5 lakhs to the complainant. A6 stood as surety for the balance amount. A2 and A6 issued acknowledgments by way of written documents. Subsequently, when the complainant

demanded the amount, A2 did not pay the same. Hence, the complainant filed the private complaint against the respondents for the offence of cheating before the learned Magistrate.

3. The learned Magistrate after considering the contents in the complaint and the sworn affidavits of the complainant, Thallapaneni Venkateswarlu and Gundavarapu Ramesh, dismissed the complaint. Aggrieved by the same, the present revision was filed.

4. Heard the learned Counsel appearing for respondents Nos.1 to 6 and perused the material available on record. The learned Counsel for the petitioner is absent. Since the matter pertains to the year 2008, this Court proceeded to dispose of the matter on merits.

5. The learned Counsel for respondents 1 to 6 submitted that the present complaint has arisen out of business transaction and that the contents in the complaint would not attract the ingredients of Section 420 IPC and that the trial Court has rightly dismissed the complaint.

6. The learned Magistrate while dismissing the complaint clearly observed that A2 did not say that he will not pay the amount, and that A2 agreed to pay the default amount. But, A2 committed default in payment of due amount to the complainant. Mere default in payment of dues will not attract the offence of cheating as rightly observed by the trial Court.

7. This Court has also gone through the allegations made in the complaint. The contents in the complaint and the sworn affidavits do not disclose any intentional deception. Further, the entire transaction is based on the agreement between the parties. Considering the circumstances of the case and the reasons recorded by the trial Court for dismissal of the

complaint, this Court is not inclined to interfere with the order under revision.

8. Accordingly, the Criminal Revision Case is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

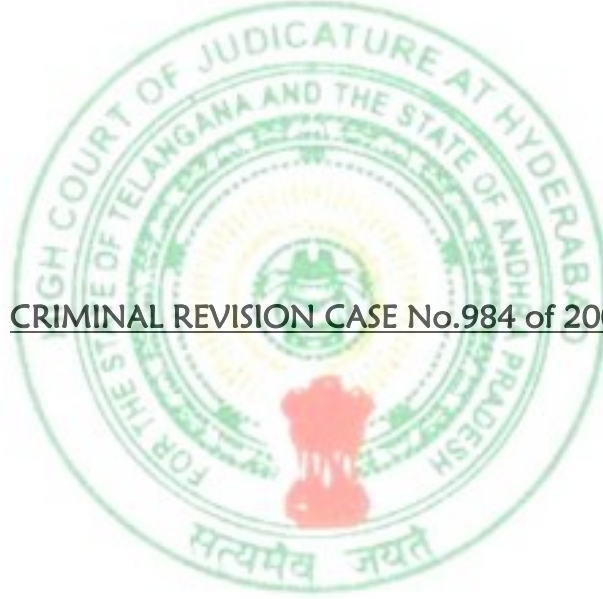
JUSTICE RAJA ELANGO

Dated:9th September, 2016

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09.09.2016

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