IN THE HIGH COURT OF JUDICATURE AT MADRAS

20.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Criminal Revision Case No.59 of 2014

S.Subramaniam ... Petitioner

Vs

1.Ponnusamy
2.Rakkiannan
3.Duraisamy
4.State by
Sub Inspector of Police,
Nambiyur Police Station,
Erode District.
(Crime No.93 of 1998) ... Respondents

Criminal Revision Case filed under Section 397 and 401 Cr.P.C., to call for the records relating to the order of acquittal dated 29.07.2008 made in C.C.No.97 of 2001 on the file of the learned Judicial Magistrate No.II, Gobichettipalayam and set aside the same.

For Petitioner : Mr.D.R.Arunkumar

For Respondents : Mr.S.Lakshmansamy
for R1 to R3
Mr.R.Ravichandran for R-4
Government Advocate(Crl. Side)

ORDER

Challenging the order of acquittal, the present revision has been filed. The respondents 1 to 3 are the accused 1, 3 and 4 in

C.C.No.97 of 2001 on the file of the learned Judicial Magistrate No.II, Gobichettipalayam. They stood charged for the offence under Sections 468 and 465 of IPC and Section 82(c) and 82(d) of the Registration Act. The trial Court, after considering the materials acquitted the accused from all the charges framed against them. Challenging the order of acquittal, the present criminal revision case has been filed by the son of the defacto complainant.

2.The case of the prosecution, in brief, is as follows:-

(i) The petitioner's father/defacto complainant, is the owner of the property to an extent of 1.64 acers of land in Eammampoondi Village. He entered in to a sale agreement on 16.03.1995, with the first respondent/first accused herein, and the sale consideration was fixed at Rs.1,64,000/- and a sum of Rs.5,000/- was paid as advance, and the same was registered in the Sub Registrar Office, Nambiyur. Since the first accused failed to execute the sale deed, the petitioner sent a legal notice on 11.09.2007 cancelling the said agreement. For which, the first accused sent a reply notice to the petitioner stating that on 06.03.1996, itself the defacto complainant received the entire balance sale consideration and executed the sale deed and the same was registered in Nambiyur Sub Registrar Office, suppressing the said fact, the present notice has been given. After verifying from the Sub Registrar Office, the defacto complainant came to know that the first respondent put his left thump impression fraudulently and registered the sale deed. Hence, he has given a complaint on 26.03.1998.

(ii) On receipt of the complaint, P.W.8, the Sub Inspector of Police working in the respondent police station, registered a case in Crime No. 93 of 1998 for the offence under Sections 465 and 468 IPC and Sections 82(c) and 82(d) of the Registration Act and prepared first information report[Ex.P2]. P.W.9, the Inspector of Police working in the respondent police station, on receipt of the first information report, commenced investigation, examined the witnesses and recorded their statements and sent a document for opinion from the expert, and after completion of investigation, he filed the charge sheet.

3. Based on the above materials, the trial Court framed charges as mentioned in paragraph one of the judgment and the accused denied the same. In order to prove the case of prosecution, as many as 9 witnesses were examined and 4 documents were exhibited.

4. Out of the witnesses examined, P.W.1 is the document writer at Nambiyur. He has written the disputed sale deed on 06.03.1996. P.W.2 is the person known to the defacto complainant, he turned hostile. P.W.3 was working as Sub Registrar in Nambiyur,

he registered the document. According to him, on the date of registration, the petitioner executed a sale deed in favour of the first accused and after verifying all the papers, he registered the document. The defacto complainant put his left thump impression in his presence. P.W.4 is another Sub Registrar at Nambiyur. P.W.5 is also another Sub Registrar. He sent the documents to the Court for verification by the finger print expert. P.W.6 is the finger print expert. He compared the disputed signature of the defacto complainant and he has submitted his report Ex.P1. According to him, the left thump impression found in the sale deed is tallying with admitted thump impression of the defacto complainant. P.W.7 is the Head Constable. He has taken the document for finger print expert. P.W.8 is the Sub Inspector of Police working in the respondent police station. According to him, on receipt of the complaint, he registered a case and prepared a first information report and sent the same to the higher officials. P.W.9 is the Inspector of Police working in the respondent police station. On receipt of the first information report, conducted investigation, examined the witnesses and recorded their statements and after completion of investigation, he laid the charge sheet.

5. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false and they did not examined any witness nor marked any documents.

6. Having considered all the above materials, the trial Court acquitted the accused. Now, challenging the above said order of acquittal, the present Criminal Revision Case has been filed.

7. I have heard Mr.D.R.Arunkumar, learned counsel appearing for the petitioner and Mr.S.Lakshmansamy, the learned counsel appearing for the respondents 1 to 3 and Mr.R.Ravichandran, the learned Government Advocate(Crl. Side) appearing for the 4th respondent and perused the materials available on record.

8. It is the case of prosecution that the defacto complainant has entered into a sale agreement with the first accused, thereafter without his knowledge, the first accused forged his thumb impression, get a sale deed executed in his favour and registered the same in Sub Registrar Office, Nambiyur. The respondents 2 and 3/Accused 2 and 3 are the attestors of the document. In order to prove the same, the prosecution examined the Sub Registrar as P.W.3. In his evidence, the Sub Registrar has clearly stated that on the date of registration, the defacto complainant executed a sale deed in favour of the first respondent/first accused and he registered the same in the Register. He further stated that he read over the contents of the sale deed to the defacto complainant and he also confirmed that the defacto

complainant received the entire balance sale consideration and then he obtained a signature of the attestors and also print left thumb impression of the defacto complainant in the document. From his evidence, it is clear that only the defacto complainant executed the sale deed and nothing was culled out from the cross examination to show that he has colluded with the accused and registered the documents fraudulently. P.W.6 is the finger prints expert who compared the left thumb impression found in the sale deed and admitted the LTI of defacto complainant, and he submitted a report that the left thumb impression found in the sale deed is tallying with admitted LTI of the defacto complainant. From their evidence, it is clear that only the defacto complainant alone executed the sale deed in favour of the first accused and no material available on record to show that the first accused has committed forgery. Considering the above materials, the trial Court acquitted the accused and hence, I find no merit in the criminal revision case and the same is liable to be dismissed.

9. In the result, the Criminal Revision Case fails and accordingly, the same is dismissed. The order passed by the learned Judicial Magistrate No.II, Gobichettipalayam, dated 29.07.2008 made in C.C.No.97 of 2001 is hereby confirmed.

20.04.2017

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Note: Issue order copy on 25.04.2017

V.BHARATHIDASAN,J

rrg

Crl.R.C.No.59 of 2014

20.04.2017