

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.188 of 2008

Narmadha
Appellant/Appellant/Complainant

Vs

M.S.Venkatesan ...Respondent/Respondent/Accused

Prayer :- Criminal Appeal filed under Section 340 Cr.P.C., to set aside the order of the learned VI Additional Sessions Judge, Chennai in C.A.No.197 of 2006 dated 08.01.2008 confirming the order passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai in CrI.M.P.No.550A/2006.

For Appellant : Ms Anupriya,
Legal Aid Counsel

For Respondent : No appearance.

JUDGEMENT

This appeal has been filed against the order of dismissing the application filed under Section 340 Cr.P.C. for the offence under Section 211 of IPC.

2. In an earlier occasion, the learned counsel appearing for the appellant filed a memo stating that he has given a change of vakalath in the matter and there is no representation for the appellant, hence Mrs. Nalini, Advocate was appointed as a legal aid counsel and for 3 hearing she has also not appeared. In the circumstances, Ms.Anupriya, Advocate, is appointed as legal aid counsel, for the appellant.

3. The appellant herein filed a complaint against the respondent under Section 340 Cr.P.C., seeking a direction of the Court to make a complaint against the respondent for an offence under Section 211 IPC.

4. The above complaint has been filed on the ground that the respondent herein sold a property to an extent of 17 cents to the appellant for a valuable consideration, and after executing the sale deed, the respondent filed a false complaint against the appellant alleging that the appellant has committed forgery and also fabricated sale deed. Based on the complaint given by the respondent, a case in Crime No.1445/94 for the offences under Sections 423, 447, 465 has been registered.

5. After investigation, the police has filed a final report referring the case as mistake of fact and that was also accepted by the Judicial Magistrate by an order dated 04.03.1999. Thereafter, in the year 2006, the appellant filed the present application on the ground that the respondent has made a false complaint against the appellant. Hence, he is liable to be punished under Section 211 of IPC.

6. The trial Court, after considering the materials, dismissed the application holding that the petitioner's application is barred by limitation and even though the final report was filed on 04.03.1999, the present petition has been filed on 28.02.2006, after 7 years. Apart from that, the trial Court has held that no offence is made out under Section 467 of IPC. Hence, the second part of 211 IPC is also not applicable to the present case.

7. Challenging the above said order, the appellant filed an appeal in Cr1.A.No.197 of 2006 and the lower appellate Court after elaborately considering the case, dismissed the appeal and also confirmed the order passed by the Magistrate. Now, challenging the above said order, the present appeal has been filed.

8. I have carefully considered the entire materials available on record. I find no illegality or perversity in the order passed by the Court below. The Courts below has rightly held that no offence is made out under Section 467 IPC, and only first part of 211 IPC is applicable to the present case. Since the complaint has been filed after 7 years, the complaint is barred by limitation as per Section 468 Cr.P.C.

9. In the above circumstances, I find no merit in the appeal and the appeal deserves to be dismissed.

10. In the result, the Criminal Appeal is dismissed and the impugned judgments passed by the Courts below are hereby confirmed.

11. While parting with the case, I appreciate the services rendered by Ms.Anupriya, learned counsel who appeared on behalf of the appellant, as Legal Aid Counsel. The Legal Services Authority is directed to pay her remuneration.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The XI Metropolitan Magistrate,
Saidapet, Chennai.
2. The Sessions Judge,
VI Additional sessions Judge,
Chennai.
3. The Public Prosecutor,
High Court, Madras.
4. The Secretary, Legal Services Authority
Chennai-104

copy to

The Section Officer
Criminal Section High Court,
Chennai-104

+1 cc to M/s.M.Anupriya Advocate sr 88029

Crl.A.No.188 of 2008

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