

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.06.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.A.No.307/2010

Murugan

..

Appellant/Complainant

Vs

Jayan

..

Respondent/Accused

Prayer:- This Criminal Appeal is filed u/s.378[4] Cr.P.C., to call for the records and set aside the judgment passed on 01.03.2010 in CC.No.167/2005 on the file of the learned Judicial Magistrate, Arakkonam.

For Appellant : Mr.S.Gowri Shankar

For Respondent : Mr.Mohamed Hasain

JUDGMENT

This Criminal Appeal is filed against the dismissal of the private complaint filed by the appellant/complainant in CC.No.167/2005 before the learned Judicial Magistrate, Arakonam, for the offences u/s.209 and 418 IPC, vide judgment dated 01.03.2010.

2 The matter relates to the allegation that the respondent / accused, by misrepresentation, has taken the document, viz., the Sale Deed dated 26.09.1974 bearing Doc.No.3006/1974, belonging to the appellant/complainant and the respondent/accused filed a suit in OS.No.104/2005 for partition of the suit property, in which the document in question was marked as Ex.A.1 and the father of the appellant/complainant filed a suit in OS.No.107/2005 for a declaration of his title before the Court of the District Munsif, Sholingur.

3 When the matter is taken up today, the appellant/complainant and the respondent/accused are present before this Court and a Joint Memo [USSR No.3500 dated 18.06.2019] has been filed by the parties, the contents of which, is extracted hereunder:-

JOINT MEMO FILED BY THE APPELLANT AND RESPONDENT
'The appellant submit that document No.3006 of 1974 Sale Deed dated 26.09.1974 [S.R.O.Arakkonam] stood in the name of the appellant's late father S.Umapathi. The respondent had by misrepresentation and inducement obtained the original sale deed from the appellant on 05.02.05 under the pretext of obtaining a bank loan.

Thereafter, the respondent filed OS.No.104 of 2005 on the file of the learned District Munsif Court, Sholingur for a partition of the suit property covered under the sale deed dated 26.09.1974. The appellant submits that his late father filed OS.No.107 of 2005 for a declaration of his title. Pending the suits, the appellant's father Umapathy expired and his legal heirs were brought on record.

As the original document of title had been misused by the respondent herein, the appellant instituted a private complaint in CC.No.167 of 2005 on the file of the Judicial Magistrate, Arakkonam, against the respondent for offences under section 209 and 418 IPC was dismissed on the ground that the document is subject matter of above civil suit. Against the acquittal the above appeal has been filed.

The appellant submits that in the mean time OS.No.104 of 2005 and OS.No.107 of 2005 were jointly tried and OS.No.104 of 2005 was dismissed while OS.No.107 of 2005 was decreed upholding the appellant's title.

The respondent herein had marked the sale deed as Ex.A1 in OS.No.104 of 2005. The judgment and decree of the trial court was confirmed in AS.No.75 and 76 of 2012 on the file of Learned Sub Court, Ranipet. The SA.No.560 and 561 of 2016 filed before this Hon'ble Court was dismissed on 30.06.2016.

The appellant respectfully submits that the appellant's title had been declared in OS.No.107 of 2005 and confirmed on appeal and also in second appeal has become final. Hence, the respondent has no right, title or interest in the property covered under the sale deed which

is of no use to the respondent.

The appellant further submits that the original document Ex.A1 in OS.No.104 of 2005 is in court along with suit records. The appellant submits that in as much as his title to the property had been declared by the Civil Court, he is lawfully entitled to the original sale deed Ex.A.1. The respondent can have no objection, nor does he have any objection to the return of the original sale deed marked as Ex.A1 in OS.No.104 and 107 of 2005 to the appellant herein.

It is therefore prayed that this Hon'ble Court may be pleased to record this joint memorandum by which the respondent has no objection to the appellant herein in receiving the original document of title marked as Ex.A1 in OS.No.104 and 107 of 2005 on the file of the learned District Munsif Court, Sholinghur, and original document may be returned to the appellant-Murugan, the 2nd defendant in OS.No.104 of 2005 and 2nd plaintiff in OS.No.107 of 2005 and thereby render justice.

Dated at Chennai this the 18th day of June 2019.'

The said Joint Memo dated 18.06.2019 is taken on file and on record.

4 The respondent/accused would submit that he would cooperate with the appellant/complainant in taking the return of the document marked as Ex.A.1 in OS.No.104/2005 on the file of the learned District Munsif, Sholinghur.

5 In view of the Joint Memo filed by the parties, the criminal appeal stands disposed of. The parties are directed to strictly abide by the Joint Memo.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

AP

To:

1.The Judicial Magistrate, Arakkonam.

2. The District Munsif, Sholingur

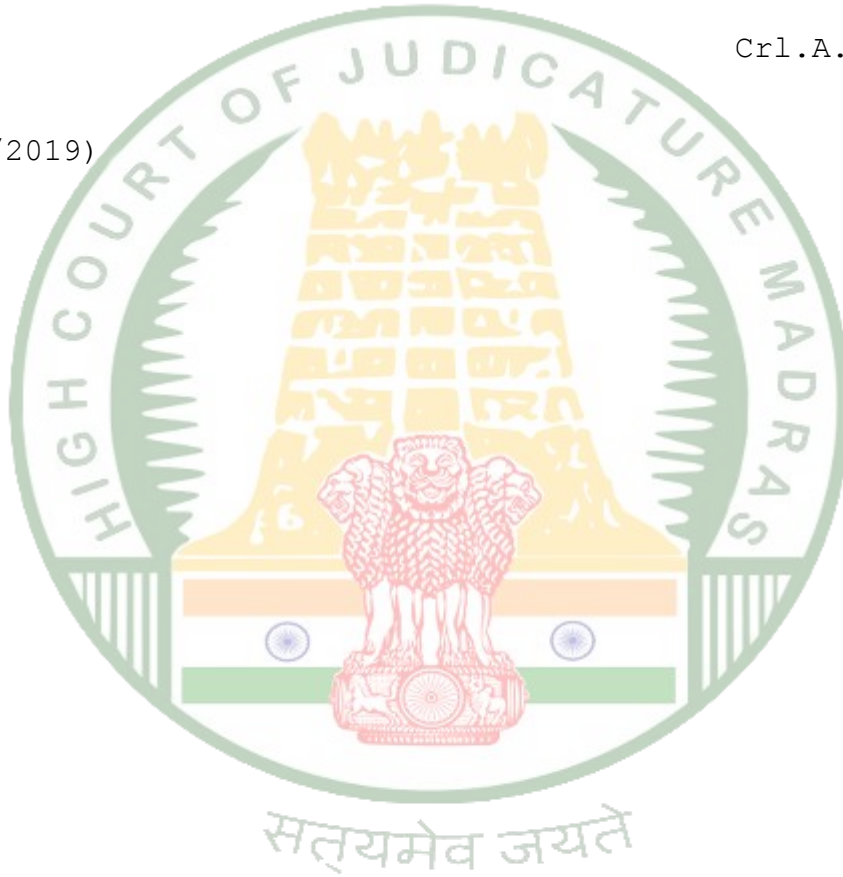
3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.M. Mohamed Hasain, Advocate SR.No.49292

+1cc to Mr.G.Jremiah, Advocate SR.No.49927

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BS (CO)
GMY (11/07/2019)



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