

Bail Slip

The Petitioner/Accused Viz., Haridoss, S/O Baktha Vachalu, aged about 49 years was released on bail as per order of this Court dated 23/11/11 in Crl.M.P.No.1/11 in Crl.R.C.No.1482/11 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.1482 of 2011

Haridoss

...Petitioner/Accused

Vs

The State by Inspector of Police,
District Crime Branch Police Station,
Thiruvallur.

... Respondent/Complainant

Prayer :- This Criminal Revision is filed under Section 397 r/w Section 401 Cr.P.C., to set aside the conviction and sentence passed in C.C.No.653 of 2005 dated 16/12/2009 by the learned Judicial Magistrate - II, Thiruvallur for the offence under Section 420 I.P.C., to undergo one year rigorous imprisonment and fine of Rs.1,000/- and in default of payment of fine, three months simple imprisonment was ordered and the same was confirmed by the learned Additional District & Sessions Judge, Fast Track Court - III, Thiruvallur in C.A.No.16 of 2010 by judgment dated 26.09.2011.

For Petitioner : Ms.N.Valliamma, for
Mr.M.Christopher

For Respondent : Ms.Kritika Kamal,
Government Advocate (crl.side)

ORDER

This Criminal Revision Petition is directed against the concurrent finding of the courts below holding the Revision Petitioner guilty of offence under Section 420 I.P.C.

2.The defacto complainant, in this case is none other than the father of the revision petitioner. The complaint against the revision petitioner is that the property owned by the defacto complainant was sold by the petitioner for a sum of Rs.9,36,000/- to P.W.5 - Killivalavan and cheated the sale consideration without sharing it to the defacto complainant and other family members.

3.When the matter was taken up to the panchayatdars, the petitioner agreed to deposit the money in the name of his father and sister but, failed to do so. When the defacto complainant demanded the money, the petitioner and his family members, who were arrayed as A.2 and A.3 threatened him with dire consequences. Hence, the complaint.

4.The trial Court below while acquitting the other accused held the petitioner herein guilty of offence under Section 420 I.P.C., and imposed Rs.10,000/- fine and one year rigorous imprisonment. On appeal, the First Appellate Court found no merit in the appeal and dismissed it, confirming the conviction and sentence passed by the trial Court. Aggrieved by the concurrent finding of conviction, the accused has preferred the present Criminal Revision Petition.

5.The finding of the Courts below is attacked on the ground that to convict a person for offence under Section 420 I.P.C., the prosecution should prove the intention of deception from the inception. As far as this case is concerned, the family members decided to sell the property to meet out their financial commitments. As a male member of the family, the petitioner had negotiated with the buyer - P.W.5 Killivalavan and the sale was completed with consent of all the share holders. The sale consideration was duly shared by the members of the family as and when the sale consideration was paid by the buyer - P.W.5. It was properly accounted by the appellnat and apportioned by the family members. The contradiction in respect of sale consideration elucidated from the evidence of P.W.1 and P.W.5, were not properly appreciated by the Courts below.

6.Merely relying upon the bank statement of the accused, the Courts have believed the version of P.W.1 that the accused/revision petitioner has misappropriated the entire sale consideration.

7.The contention of the learned counsel appearing for the revision petitioner not backed by any evidence so does not warrant any interference of the concurrent finding of the Courts below. However, the subsequent development in this case calls

for interference since, the defacto complainant Bakthavatchalu is none other than the father of the petitioner and he has passed away. The petitioner and his sister (Kausalya) are the legal representatives of the defacto complainant. Kausalya - the sister of the petitioner was examined as P.W.3 and she has supported the case of the prosecution, during the trial.

8.Today, she is present before this Court and submits that her brother, the revision petitioner herein is now taking care of her. He has also paid the money which she is entitled under the sale deed entered with P.W.5 and further, she being the sister and physically disabled, it is the petitioner who is now taking care of her and she has no financial dispute with him so she wants to give quietus to the matter.

9.Under Section 320 Cr.P.C., offence under Section 420 I.P.C., can be compounded with leave of the Court, at the instance of the victim/complainant. P.W.3 in this case is only victim alive now. She has filed an affidavit to compound the offence. The same is recorded.

10.In this case, P.W.3 the legal representatives of the defacto complainant has decided to bury the dispute and give quietus to the matter. In such circumstances, in the interest of justice, the Court accept her statement and request to compound the offence.

11.Accepting the said submissions, this Court compound the offence in C.C.No.653 of 2005 on the file of the learned Judicial Magistrate No.1, Thiruvallur and consequently, the accused/petitioner shall stand acquitted of all charges. The affidavit of P.W.3 shall form part of the record. The revision petitioner is set at liberty. Accordingly, the Criminal Revision Petition is disposed of.

सत्यमेव जयते Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

1.The Judicial Magistrate - II,
Thiruvallur.

2.The Chief Judicial Magistrate,
Thiruvallur.

3.The Additional District & Sessions Judge,
Fast Track Court - III,
Thiruvallur.

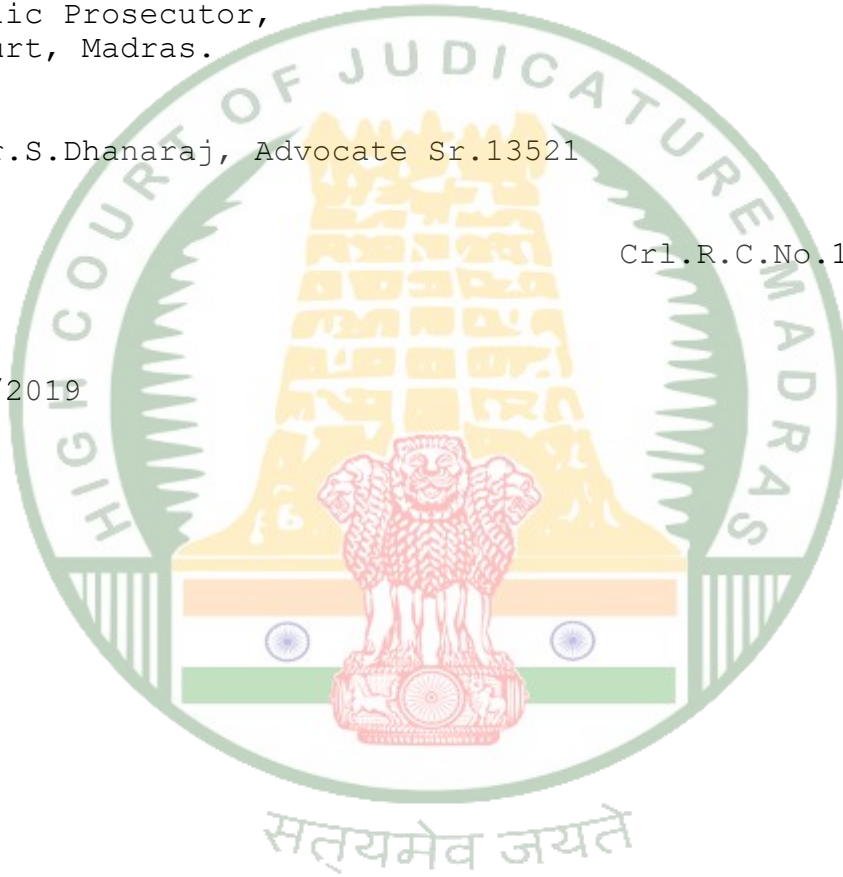
4.The Inspector of Police,
District Crime Branch Police Station,
Thiruvallur.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Dhanaraj, Advocate Sr.13521

Crl.R.C.No.1482 of 2011

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