

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.6895 of 2017

A.Kuppuraj ...Petitioner/Petitioner/Respondent
/Defacto Complainant

-Vs-

1.Tmt.M.Srividya Respondent/Respondent/Petitioner/Accused

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order passed in CRP.No.79 of 2014, dated 10.01.2017, by the learned IV Additional District and Sessions Judge, Coimbatore, confirming the order dated 17.10.2014 passed in Crl.M.P.No.618 of 2014 in C.C.No.330 of 2013, by the learned Judicial Magistrate No.II, Pollachi.

For Petitioner : Mr.V.Sridharan

For Respondent : MrR.Gandhi, Sr.Counsel
for Mr.S.Vadivelmurugan

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in CRP.No.79 of 2014 dated 10.01.2017, confirming the order passed by the learned Judicial Magistrate No.II, Pollachi, allowing the discharge petition filed by the respondent.

2.The petitioner filed a Complaint before the Judicial Magistrate No.II, Pollachi, against the respondent on the ground that the petitioner executed a Power of Attorney dated 20.01.2010 in favour of the respondent and authorised the respondent to promote it as a property and sell the property. The grievance of the petitioner was that the respondent had received a sum of Rs.69,83,000/- and did not settle the accounts or settled the money due to the petitioner and therefore has committed the offence of cheating and criminal breach of trust.

3.This Complaint was taken cognizance by the Court below and the respondent filed a discharge petition before the Court below under Section 245(2) of Cr.P.C. The Trial Court after considering the matter in detail along with all the available materials, came to a categorical conclusion the offence of cheating and criminal breach of trust has not been made out against the respondent. The Trial Court gave a further finding that there are absolutely no materials to show that the respondent had an intention to cheat right from the inception. The Trial Court further found that the parties were bound by an agreement and breach of the terms of the agreement cannot amount to an offence of cheating. On this ground, the respondent was discharged from the case.

4.This order was put to challenge before the IV Additional District and Sessions Court, Coimbatore. The Revision Court after considering the entire facts and circumstances of the case concurred with the findings of the Trial Court. The Revision Court also found that the petitioner had already filed a suit in O.S.No.117 of 2013, long prior to the filing of the complaint and in that suit the respondent had produced the accounts for the sale of the property. This fact was suppressed by the petitioner and therefore this was also taken as an additional ground by the Revision Court to confirm the order of the Trial Court.

5.Heard the learned counsel for the petitioner and the learned Senior counsel appearing on behalf of the respondent.

6.This Court does not find any illegality or infirmity in the orders passed by the Court below.

7.The Courts below have given their finding based on the materials available before the Court and found that no offence has been made out and the entire case is civil in nature. This Court does not find any ground to interfere with the orders passed by the Court below.

In the result, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The IV Additional District
and Sessions Judge,
Coimbatore.

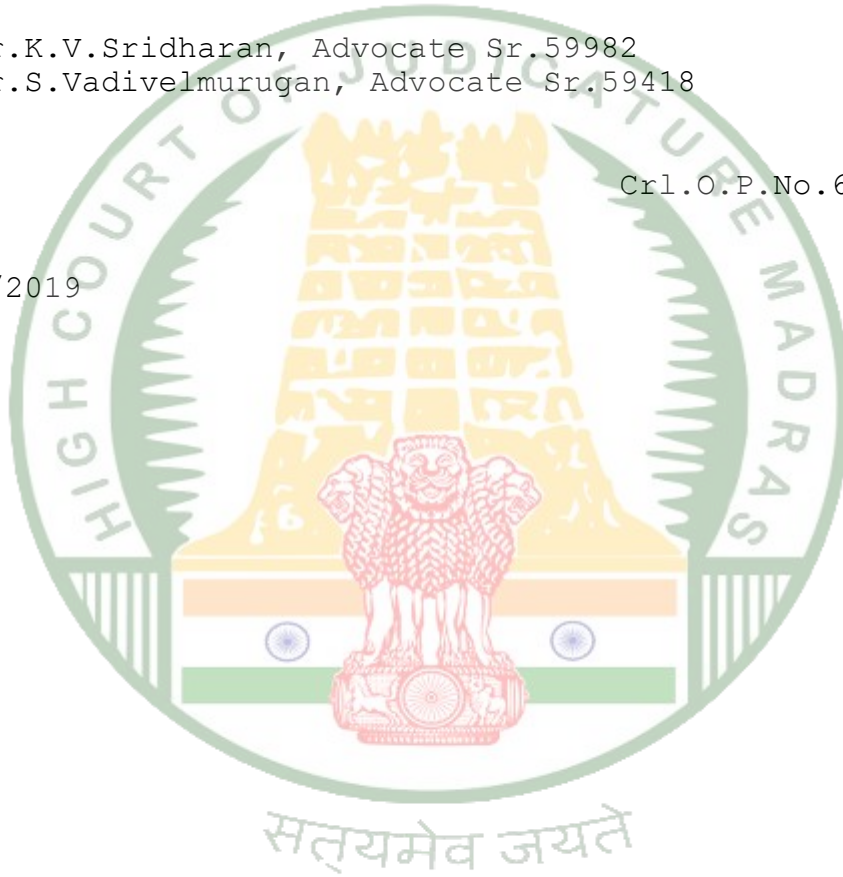
2.The Judicial Magistrate No.II,
Pollachi.

+1cc to Mr.K.V.Sridharan, Advocate Sr.59982

+1cc to Mr.S.Vadivelmurugan, Advocate Sr.59418

Cr1.O.P.No.6895 of 2017

vba[co]
srg 14/08/2019



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