



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C. (MD)No.514 of 2015

and

M.P. (MD)No.1 of 2015

S.Kumar

... Petitioner / Appellant / Defacto
Complainant

-vs-

1.K.Ananda Subbiah

2.R.Sathyanarayanan

3.State through S.I., of Police,

Poovathi Police Station,

In Crime No.155 of 2013

... Respondents / 3rd parties

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C., praying to call for the records in C.A.No.7 of 2013 by the Principal District and Sessions Judge, Sivagangai on 03.07.2015 confirming the order passed by the learned Judicial Magistrate No.II, Sivagangai in C.C.No.92 of 2008, dated 08.08.2008 and set aside the same in respect of M.O.4, M.O.23 and M.O.26 the amount of Rs.2,92,500/- by allowing this revision.

For Petitioner: Mr.S.Nateshraj

For R3

: Ms.S.Bharathi,

Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is filed against the concurrent finding of the Courts below.

2.The parties are referred to as per their rank before the trial Court.

3.The case of the prosecution is that one Sathappa Chettiar was running a textile mill under the name and style of Kumar Textile Mills near Poovanthi. Since he was not able to run the mill as profitable, he entered into an agreement on conversion basis with one Anantha Subbiah, owner of the Kaveri Hi-Tech Spares and the said Anantha Subbiah executed a power of attorney in favour of Sathya Narayanan and they entered into an agreement and the mill was functioning for sometime, thereafter, closed. While



so, on 18.12.2003, some thieves entered into the mill and they had stolen the electric weighing machines, yawns and other articles worth about Rs.4,27,000/-. Therefore, the law enforcing agency / third respondent has registered a case under Sections 457 and 380 IPC in Poovanthi Police Station in Crime No.155 of 2013 against the accused persons, who were arrived as accused before the trial Court.

4.On the side of the prosecution, the third respondent has examined P.W.1 to P.W.14 and marked Exs.P.1 to P.47 as well as M.O.1 to M.O.26. No witnesses were examined and no documents were marked on the side of the accused persons. After trial, the trial Court has acquitted the accused persons and ordered for returning the property to the respective owners. Aggrieved the said return of property to the respective owners, the petitioner has filed an appeal before the Lower Appellate Court in Crl.A.No.07 of 2013. However, the Lower Appellate Court, by its order dated 03.07.2015, has dismissed the appeal. Challenging the same the present Criminal Revision Petition is filed.

5.The learned counsel appearing for the petitioner would submit that the petitioner is the defacto complainant and he entered into an agreement with respective property owners and the said property was stolen by the accused persons. However, without ascertaining the ownership of the property, the trial Court has ordered for returning the property to some other persons, which is unsustainable one. Accordingly, he prayed for allowing the appeal.

6.The learned Government Advocate (Crl.Side) appearing for the third respondent would submit that after elaborate trial and ascertaining the ownership of the property, the respective material objects were returned to the owners, in which, this Court need not interfere with and no appeal was filed against the acquittal. This revision is only filed in respect of the return of the properties ie., M.O.4, M.O.23 and M.O.26. Accordingly, she prayed for dismissal of the appeal.

7.Considering the facts and circumstances of the case, admittedly, the petitioner did not prefer any appeal against the acquittal order and he preferred the revision only in respect of return of property, particularly, M.O.4, M.O.23 and M.O.26. However, the said issue was elaborately considered by the Lower Appellate Court and the order of the trial Court is confirmed.

8.Further, this Court entertains the revision only to correct the illegality of the order or if the order of the trial Court is perverse. In the present case, the perversity is not established. Hence, this Court do not find any error in the order



passed by the Lower Court as well as the Lower Appellate Court.

9. Accordingly, this Criminal Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

1. The Principal District and Sessions Judge,
Sivagangai.

2. The Judicial Magistrate No. II,
Sivagangai.

3. The Sub Inspector of Police
Poovathi Police Station.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr. C. ARUL VADIVEL@SEKAR, Advocate (SR-10224[F] dated
05/03/2020)

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05.03.2020

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