



Crl.A.No.564 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM:

THE HONOURABLE Dr.JUSTICE **G.JAYACHANDRAN**

Criminal Appeal No.564 of 2014

S.Thiyagarajan

.. Appellant

/versus/

1.The Inspector of Police,
C-5, Crime, Kothavalchavadi Police Station,
Chennai-600 001.

2.S.Markandeyan

3.M.Ravi

.. Respondents

Criminal Appeal has been filed under Section 372 of Criminal Procedure Code praying to set aside the order of acquittal in C.A.No.23 of 2013 on the file of the learned VII Additional Sessions Judge, Chennai duly passed against the respondents 2 & 3 and punish him for the offences of cheating and breach of trust under Section 420 & 406 of I.P.C.

For Appellant : Mr.D.Ashok Kumar

For R1 : Mr.Kishore Kumar
Government Advocate (Crl.Side)



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For R2 & R3 : Notice sent service awaited

JUDGMENT

There is no representation for the appellant.

2. This Criminal Appeal is filed by the *de facto* complainant being aggrieved by the order of the lower appellate Court reversing the conviction and sentence imposed on the respondent/accused.

3. The case of the prosecution is that on a false promise to drive away the evil spirit, the accused persons extracted more than 2 lakhs rupees from the complainant. According to the complainant, the plates, which claimed to be gold, given to the complainant for performing pooja once a week for 21 weeks were not golden plates.

4. The trial Court though found the accused guilty and convicted him. The lower appellate Court on re-appreciation of evidence held that the evidence for prosecution does not satisfy the ingredients for cheating and breach of trust. There is no evidence to corroborate the case



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of the *de facto* complainant, the trial Court without taking note of the cross examination of PW.3 and PW.4 erroneously held that they were not cross examined by the accused and arrived at wrong conclusion. The trial Court failed to take note of the contradiction elucidated by PW.3 and PW.4. Hence pointing out the said error, the order of conviction was reversed.

5. This Court, on reading the reasoning given by the lower appellate Court for acquitting, finds that it is sustainable in view of the fact that conviction by the trial Court being rendered without proper appreciation of evidence and failure to consider the cross examination of PW.3 and PW.4, which has lead to miscarriage of justice.

6. For the above said reason, this Court finds no merit in the appeal to interfere in the judgment of acquittal given by the lower appellate Court. Accordingly, this Criminal Appeal is dismissed.

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Index : yes/no

Internet:yes/no



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Speaking order/ Non speaking order
rpl

To

1.The VII Additional Sessions Judge, Chennai

2.The Inspector of Police,
C-5, Crime, Kothavalchavadi Police Station,
Chennai-600 001.

3.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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