



Crl.R.C(MD) No.266 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.R.C(MD)No.266 of 2020
and
Crl.M.P(MD).No.12132 of 2022

Mummoorthy
S/o.Natarajan

... Revision Petitioner

Vs.

Subramanian
S/o.Ramasamy

... Respondent

Prayer : This Criminal Revision has been filed under Section 397 and 401 of Criminal Procedure Code, to set aside the judgment passed in C.A.No.47 of 2017 on the file of the IV Additional District and Sessions Court, Madurai dated 17.12.2019 confirming the judgment in C.C.No.191 of 2009 on the file of the Judicial Magistrate, Thirumangalam, dated 05.05.2017 and allow the Criminal Revision Petition.

For Petitioner : Mr.C.Vakeeswaran
For Respondent : Mr.N.Vallinayagam



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ORDER

This Criminal Revision Case has been filed to set aside the judgment of conviction and sentence passed in C.A.No.47 of 2017 on the file of the IV Additional District and Sessions Court, Madurai dated 17.12.2019 which was confirmed C.C.No.191 of 2009 on the file of the Judicial Magistrate, Thirumangalam, dated 05.05.2017.

2. The case of the prosecution in brief:

The defacto complainant purchased the property mentioned in the complaint on 22.08.1979 and he was in possession and enjoyment of the property. Before that purchase, the wife of the vendor, namely, Pushpam was in possession. After that, the defacto complainant came into the possession of the property. The accused Nos.3 to 5 were land brokers. They wanted to usurp the property by impersonation and in pursuance of the above said conspiracy, they used the second accused for the purpose of getting Chitta. The second accused impersonated and sold the said property to the first accused, also created fake documents and the sale was registered on 22.02.2008. When the defacto complainant obtained encumbrance certificate, he came to know about the



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offence and thereafter, he approached the first accused to cancel the above said fake documents. At that time, the first accused demanded Rs.50,000/- (Rupees Fifty Thousand only) as compensation and he was also criminally intimidated. On the basis of the complaint given by the defacto complainant, a case was registered and after completion of investigation formalities, final report was filed for the offences punishable under Sections 416, 419, 465, 468, 471, 506, 120 and 34 I.P.C., before the concerned Court.

3. Before the trial Court, on the side of the prosecution, 5 witnesses have been examined and 10 documents were marked. one material object was exhibited. On the side of the accused, one witness was examined and 4 documents was marked. No material object was exhibited.

4. At the conclusion of the trial, the Trial Court found the petitioner guilty and convicted the petitioner for the offence under Section 423 r/w 34 of IPC and directed to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of two months and for the alleged offence under Section 465 r/w 34 of IPC and directed to pay a fine of Rs.5,000/- in default to undergo simple



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imprisonment for a period of two months and for the alleged offence under Section 471 r/w 34 of IPC and sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a period of two months in C.C.No.191 of 2009 on the file of the learned Judicial Magistrate, Thirumangalam and the same was confirmed by the IV Additional District and Sessions Judge, Madurai, in C.A.No.47 of 2017, dated 17.12.2019. Challenging the same, the present Criminal Revision Case was filed before this Court.

5. Pending the revision, a compromise reached between the parties and a joint memo of compromise was also filed on 27.09.2022. In the said joint compromise memo, they have stated that the first accused as well and the petitioner/5th accused have been convicted and the first accused has also preferred the Criminal Revision before this Court. During the pendency of the said revision, he died. Now, the respondent and the petitioner/fifth accused have compromised the above said case and the respondent has no objection to allow the criminal revision by acquitting the petitioner/5th accused in the above said case.



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6. The serious allegation of impersonation has been made against the first accused. Insofar as the petitioner is concerned, the allegation against him is that the petitioner also joined in conspiracy along with other accused for usurping up the property and created forged documents.

7. As mentioned above, the case of the prosecution is that the second accused was the impersonator by impersonating the defacto complainant, he sold the property to the first accused.

8. After hearing the arguments and the evidence, the trial Court acquitted the accused Nos.2 to 4, the second accused being the impersonator and 3 and 4 are the land brokers.

9. On perusal of the judgment of the trial Court as well as the Appellate Court, the manner in which the petitioner was convicted when the main impersonator and other co-impersonators were acquitted, the evidence on record is not sufficient to implicate this petitioner into the offence, because the impersonators have been acquitted, when the charges made against the main



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impersonators were not proved beyond reasonable doubt, the same benefit of doubt must also be extended to the petitioner, however, that was not done by the trial Court or Appellate Court.

10.This Court finds a ground for acquittal, since the compromise reached between the petitioner and the defacto complainant, which also adds strength to the above said observations. On that ground, this revision petition is liable to be allowed.

11. In the result, the Criminal Revision Case stands **allowed** by setting aside the judgment passed in C.A.No.47 of 2017 on the file of the IV Additional District and Sessions Court, Madurai dated 17.12.2019 which was confirmed in C.C.No.191 of 2009 on the file of the Judicial Magistrate, Thirumangalam, dated 05.05.2017 and the revision petitioner is acquitted from all charges that are framed against him. Consequently, the connected Miscellaneous Petition is closed. The joint compromise memo dated 27.09.2022 shall form part and parcel of the record.

27.10.2022

Index : Yes/No
Internet : Yes/No
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To:-

- 1.IV Additional District and Sessions Court,
Madurai.
2. the Judicial Magistrate, Thirumangalam.



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G.ILANGOVAN,J

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ORDER MADE IN
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