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Crl.R.C.No.680 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.680 of 2023

Murugesan

... Petitioner

VS

1. The State Rep by Inspector of Police,
District Crime Branch,
Thiruvarur District.
Crime No.6 of 2006

2. Ramadoss

... Respondents

Prayer : Criminal Revision Case filed under section 397 r/w 401 of Cr.P.C, to call for the records relating to judgment dated 29.11.2021 made in C.A.No.7 of 2018 on the file of the learned Principal District and Sessions Court, Thiruvarur confirming the judgment dated 06.11.2017 made in C.C.No.202 of 2006 on the file of the learned Judicial Magistrate Court, Thiruvarur and set aside the same by allowing this criminal revision petition.

For petitioner : Mr.C.Harish

For Respondent-1: Mr.R.Vinothraja,
Government Advocate (Crl.Side)

For Respondent-2 : M/s.Mythili Srinivas



ORDER

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This criminal revision is filed challenging the judgment dated 29.11.2021 made in Crl.A.No.7 of 2018 on the file of the Principal District and Sessions Court, Thiruvarur, confirming the judgment dated 06.11.2017 made in C.C.No.202 of 2006 on the file of the Judicial Magistrate Court, Thiruvarur.

2.The learned counsel for the petitioner submitted that the de-facto complainant entered into an Agreement on 12.10.1998 with the accused for purchasing a land in Survey No.291/3 at Thiyanapuram Village, which consists of Kattukaruvai trees for a sale consideration of Rs.1,50,000/-. Subsequently, he came to know that the plot was not approved by the Government and the Registration Officer refused to register the sale. The petitioner had failed to get the approval from the Government and make the complainant believe that the plots were approved plots and made them to purchase the plots and thereby cheated. Hence, he gave a complaint to the respondent-Police. In pursuance of the complaint, a case has been registered and after investigation, the accused was prosecuted by the



respondent-Police for the offence punishable under Section 420 I.P.C.

Before the trial Court, the prosecution examined 13 witnesses and filed 29 documents as Exs.P1 to P29. The trial Court, without considering the evidence properly, acquitted the accused. This acquittal order was challenged before the appellate Court in Crl.A.No.7 of 2018. The appellate Court has also confirmed the judgment of the trial Court and acquitted the accused. Aggrieved by the said judgment, this criminal revision has been filed by the de-facto complainant.

3. Learned counsel for the petitioner further contended that the Sub Registrar, who was examined as P.W10 (Thiruselvam), deposed about the non approval of the plots and that he refused to register the land in favour of the defacto complainant. Hence, the offence is made out and the accused has to be convicted and he pleaded to allow the revision.

4.The learned counsel for the 2nd respondent/Accused supported the judgment of the trial Court and also the appellate Court. Further, he contended that at the time of entering into agreement, i.e, in the year 1988, a Government Order in G.O.Ms.No.150 of 2000 has not come into force.



It came into effect on 22.09.2000. Therefore, there is no intention to cheat the defacto complainant while entering into the agreement. Further, he submitted that the plot was handed over to the defacto complainant, after receiving the sale consideration. Further, at the time of entering into the agreement, no objection certificate was not required for registration. In the absence of any ingredients of cheat and that when there is no intention to cheat the defacto complainant, the trial Court has rightly acquitted the accused, which was confirmed by the lower appellate Court. There is no ground for interference in the findings of the Courts below and hence, he seeks to dismiss the criminal revision.

5. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that they supported the arguments of the petitioner.

6. On perusal of the records and the impugned judgment, it reveals that the 1st respondent Police prosecuted the 2nd respondent/Accused for having committed the offence punishable under Section 420 I.P.C. The charge levelled against the accused is that by entering into an agreement with the defacto complainant on 12.10.1988, an offer was made to sell the



plot for a sale consideration of Rs.1,50,000/-, but it was not approved layout. Hence, the Sub Registrar refused to register the sale. By selling the unapproved layout, the accused cheated the defacto complainant. Hence, the accused was prosecuted for the offence under Section 420 I.P.C and further, on a perusal of the evidence on record, it reveals that the government passed a G.O.Ms.No.150 of 2000, which came into force on 22.09.2000, requiring the approval of the Government for registering the plots in Panchayat Unions, Village Panchayat and Municipalities. Admittedly, the sale agreement executed by the accused was on 12.10.1988 before coming into force of G.O.Ms.No.150 of 2000. At that time, the approval of the Government was not required for selling the plots in Municipalities and Panchayats. The said fact was admitted by the Sub Registrar, P.W10(Thiruselvam) during his evidence before the Court below. Further, it is not disputed that the plot agreed to sell was handed over to the de-facto complainant. The only problem was that the Sub Registrar has refused to register the plot for want of approval of Government. Therefore, it exposes the fact that the accused had no intention to cheat the defacto complainant while selling his property. In the absence of any ingredients made out for the offence under Section 420



I.P.C, the prosecution failed to adduce the sufficient evidence before the trial Court. Hence, the trial Court on appreciating all evidence produced by the prosecution, found the accused not guilty and acquitted the accused and in the appeal, the lower appellate Court has also confirmed the judgment of the trial Court and acquitted the petitioner. Therefore, I find no ground for interference in the findings of the Courts below and there is no ground for re-appreciating the evidence in this criminal revision. Accordingly, this criminal revision case is dismissed.

18.04.2023

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To

1. The learned Principal District and Sessions Court, Thiruvarur
2. The learned Judicial Magistrate Court, Thiruvarur
3. The Inspector of Police, District Crime Branch, Thiruvarur District.
4. The Public Prosecutor, High Court, Madras



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V.SIVAGNANAM, J.

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