



Crl.A. No.857 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.A.No. 857 of 2023

Chennakrishnan

...Appellant

Vs.

1. Rathinam

2. Kandhasamy

3. Sivaperumal

... Respondents

Prayer : Criminal Appeal filed under Section 378 of the Criminal Procedure Code, 1973, against the judgment dated 07.02.2023 made in C.C. No.164 of 2012 on the file of the Judicial Magistrate Court, Harur, Dharmapuri District.

For Appellant : Mr. C. Prabhakaran

For Respondents : No appearance.

JUDGMENT

Challenge in this Criminal Appeal is made to the judgment dated 07.02.2023 made in C.C. No.164 of 2012 on the file of the learned Judicial Magistrate, Harur, Dharmapuri District.



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2. The appellant is the defacto complainant and he filed a private complaint under Section 200 Cr.P.C. against the present accused for the offences under Sections 193, 196,120B, 420, 423,468,471, 109 r/w 39 IPC.

3. The case of the complainant is as follows:

3.1. The complainant and his wife purchased 1 acre of land from one Palaniammal during the year 1985 and the 1st accused Rathinam quarreled with him stating that he had purchased 11 cents of land (which was a part of 1 acre sold) from Palaniammal during the year 1975 through a registered sale deed. Therefore, the complainant lodged a complaint with the Inspector of Police, Harur Police Station, against the accused 1 to 3. Since the 3rd accused is working as a Sub Inspector of Police in Harur Police Station, the Inspector of Police did not inquire into the complaint. The complainant therefore approached the Land Grabbing Cell, Harur and lodged a complaint with them. Though the accused promised the police officials of Land Grabbing Cell that they would produce their original title deeds, they did not do so and on the contrary,



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they filed a suit in O.S.337 of 2006 before the District Munsif, Harur against him. His further contention is that in the suit in O.S.No.337/2006, the vendor of the complainant namely, Palaniammal, was examined as a witness and she had clearly deposed that she did not sell any property to the accused and that her entire property was sold only in favour of present complainant. In the Munsif Court the accused did not produce their original title deeds and their contention was that they lost it. According to the complainant all the accused conspired with each other and created bogus documents and thus they have committed offences under Sections 193, 196,120B, 420, 423,468,471, 109 r/w 39 IPC.

3.2. The Magistrate took cognizance of the offences and summons were issued to the accused and on their appearance, copies of the records were furnished to them under Section 207 Cr.P.C. Since the accused pleaded not guilty, the case was posted for trial. The complainant examined himself as P.W.1 and one another witness (P.W.2) and marked Ex.P.1 to Ex.P15. Thereafter the accused were questioned under Section



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313(1)(b) Cr.P.C. with regard to the circumstances appearing in evidence against them. The accused denied of having committed any offence. However, no oral/documentary evidence was adduced on the side of the accused.

3.3. The learned trial court judge, after analysing the oral and documentary evidence adduced on both sides, acquitted the accused, vide judgment dated 07.02.2023.

4. Heard Mr. C. Prabhakaran, learned counsel for the appellant. There is no representation on behalf of the respondents even though their names are printed in the cause list.

5. Mr. C. Prabhakaran, learned counsel for the appellant drew the attention of this court to the deposition of Palaniammal who had deposed, before the District Munsif, Harur in O.S. No.337/06, that she had executed a sale deed only in favour of the complainant and not in favour of the accused. Relying on this particular piece of evidence, the



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learned counsel for the appellant contended that even according to the vendor, the document has been forged and therefore all the accused should have been punished by the trial court for the offences under Sections 193, 196, 120B, 420, 423, 468, 471, 109 r/w 39 IPC.

6. A perusal of the records shows that the suit in O.S.No.337/06 was dismissed as the accused withdrew the said suit. It is pertinent to point out that though Palaniammal had deposed before the District Munsif that she did not sell any property in favour of the accused and she has not taken any action against the accused. She has also not been examined as a witness in the criminal case. At this juncture it is relevant to extract Section 34 of the Registration Act.

Section 34 in The Registration Act, 1908

34. Enquiry before registration by registering officer.—(1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering



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officer within the time allowed for presentation under sections 23, 24, 25 and 26: Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

Since the complainant claims that the sale deed in favour of the accused is a forged document, as per Section 101 of the Indian Evidence Act, the burden of proof lies on the complainant. In the instant case, the complainant did not take any action though he contends that immediately after the purchase was made during the year 1985, the first accused started picking up quarrel with him. The complainant had not established any of his contentions made in his complaint.

7. In the circumstances, all the observations made by the trial court judge are perfectly in order and therefore, I do not see any reason to interfere with the same.



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8. In the result,

- i. the Criminal Appeal is dismissed.
- ii. the judgment dated 07.02.2023 made in C.C. No.164 of 2012 on the file of the learned Judicial Magistrate Court, Harur, Dharmapuri District, is confirmed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

bga

To

The Judicial Magistrate Court, Harur, Dharmapuri District.



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R. HEMALATHA, J.
bga

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