



CrI.A.No.484 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2023

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

CrI.A.No.484 of 2020

P.Moorthy,

... Appellant/Complainant.

/versus/

1. G.Prem Kumar,
Son of Gurusamy,
Proprietor of Vijayam Chit Funds,
Karupathal Thottam,
Indhra Nagar, College Road,
Tiruppur.

2. Maruthai,
Proprietor of Thirumurugan Packing Centre,
No.9, A-VP Sindhan Nagar, 2nd Street,
Samundipuram, Gandhi Nagar Post,
Tiruppur.

... Respondents/Accused 1 & 2.

Prayer: Criminal Appeal has been filed under Section 378 of Cr.P.C., pleaded to set aside the order dated 30.12.2019 passed in S.T.C.No.1408 of 2019 on the file of Judicial Magistrate No.1, Tiruppur and convict the respondents.

For Appellant : Mr.K.Myilsamy

For Respondents : Mr.P.M.Duraiswamy



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JUDGMENT

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This Criminal Appeal is filed by the private complainant being aggrieved by the order of dismissal of the complaint by the trial Court for want of proof.

2. Perusal of the private complaint indicates that the complainant P.Moorthy engaged in Hosiery garments business, subscribed chit with the accused Thiru.G.Prem Kumar was running Chit fund by name and style of M/s.Vijayam Chit funds. He joined the chit group for Rs.9,00,000/- and paid Rs.30,000/- from 15.06.2016 to 15.03.2017. The chit passbook given to him and entries made for the payment. Thereafter, the accused failed to pay the chit amount to the subscribers and stopped the chit. By the time, the complainant had paid 10 instalments of Rs.30,000/- each, which the accused liable to return but failed and cheated him. In this connection, he gave a complaint to the Police but no action was taken, hence the private complaint for cheating him for Rs.3,00,000/- with dishonest intention.



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3. The trial Court which took the complaint on file in S.T.C.No.1408 of 2019. After examining the complainant as P.W.1, dismissed the complaint holding that there is no evidence to substantiate the complaint.

4. Being aggrieved by the order of the trial Court, the present appeal is filed by the complainant before this Court after obtaining leave.

5. The Learned Counsel for the appellant vehemently argued that the documents were filed along with the complaint and the trial Court failed to consider those documents which are the chit passbook, amount paid by the complainant and the acknowledgement of the accused. To ascertain whether there was any omission on the part of the trial Court to mark the documents. This Court called for the records from the trial Court, the Learned Judicial Magistrate, Tiruppur, had reported to this Court stating that, no documents filed in this complaint. This report of the Judicial Magistrate confirms the entry made in the trial Court judgment indicating no documentary evidence filed either on the side of the complainant or on the side of the accused.



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6. With the above fact, in the absence of proof of entrustment or obtainment of money with a deceptive intention, the ingredients of cheating which requires deceit, inducement and retention not satisfies. Therefore, the trial Court has rightly dismissed the complaint and this Court finds no reason to interfere the order of the trial Court. Hence, this *Criminal Appeal No.484 of 2020 is dismissed.*

15.06.2023

Index :Yes/No.
Internet :Yes/No.
Neutral Citation :Yes/No.
Speaking order/Non-speaking order
bsm

To,
1. Judicial Magistrate No.1, Tiruppur.



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Dr.G.JAYACHANDRAN.J.,

bsm

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