



Crl.A.No.808 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

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

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N.R.Imayavaramban

... Appellant

Vs.

D.Rajalakshmi (Died)

V.Duraisamy (Died)

1. N.Sadiq Ali

2. K.P.Ramasamy

... Respondents

Prayer : Criminal Appeal filed under Section 378 (4) of Cr.P.C., to call for the records relating to the Judgment in C.C.No.14 of 2020 on the file of the District Munsif cum Judicial Magistrate of Uthukuli, Tiruppur dated 28.07.2022 and set aside the same.

For Appellant : Mr.I.M.Siddartha Ramarajan

For Respondents : Mr.P.Mohanraj



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J U D G M E N T

Challenging the order of acquittal dated 28.07.2022 passed by the District Munsif cum Judicial Magistrate of Uthukuli, Tiruppur in C.C.No.14 of 2020, the present Criminal Appeal has been preferred.

2. The appellant is the complainant and he filed a private complaint under Section 200 of Cr.P.C., before the learned District Munsif cum Judicial Magistrate, Uthukuli against the respondents /accused for the offences punishable under Sections 406, 420 and 465 of I.P.C., in C.C.No.14 of 2020.

3. The case of the appellant / complainant is as follows:

The appellant / complainant owns a property in S.No.248 of Sundakkapalayam Village, Perundurai Taluk, Erode District and he has been in possession and enjoyment of the same. The accused 1 and 2, in order to grab the property of the complainant, had created certain documents including a Sale agreement dated 19.01.2000 in favour of the accused 3 and 4, by forging the signature of the complainant, based on



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which, a civil suit for specific performance of contract was filed by the respondents herein in O.S.No.534 of 2000 before the I Additional Sub Court, Erode.

4. The learned District Munsif cum Judicial Magistrate of Uthukuli, Tiruppur took cognizance of the offences punishable under Sections 406, 420 and 465 of I.P.C. and after recording of evidence of the complainant, issued summons to the accused for their appearance. On appearance of the accused, copies of records were furnished to them under Section 207 of Cr.P.C., The complainant examined himself as P.W.1 and Mr.Balasubramaniam, District Registrar as P.W.2 and marked Ex.P1 to Ex.P10.

5. The evidence of P.W.1 is that he owns a property in S.No.248 of Sundakkapalayam Village measuring 4.10 1/2 Acres of land by virtue of the partition Deed dated 20.12.1959 (Ex.P1) and that the accused 1 and 2 (deceased) forged the signature of the complainant and created a sale agreement in favour of the accused 3 and 4 with their



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connivance. It is also his contention that he lodged a complaint with the Superintendent of Police, Erode, in this regard. His further deposition is that the accused 1 and 2 instituted a suit in O.S.No.534 of 2000 on the file of the I Additional Sub Court, Erode for specific performance of the contract against the respondents 3 and 4 and the said suit was decreed exparte.

6. During the recording of evidence under Sections 244 Cr.P.C., the accused 1 and 2 died and therefore charges under Sections 465 and 420 of I.P.C., were framed against A3 and A4 and they pleaded not guilty. They did not choose to cross examine P.W.1 and P.W.2 .

7. Thereafter the complainant's side was closed and the accused 3 and 4 were questioned under Section 313 (i)(b) of Cr.P.C., with regard to circumstances appearing on evidence against them. Both the accused denied of having committed any offence. They did not examine any witness on their side.



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8. The Learned Trial Judge after considering the oral and documentary evidence acquitted the accused by observing thus :

“11. To prove the allegation of forgery, is pertinent to note that the P.W.1 has took efforts to send the Sale Agreement containing his disputed signature for expert analysis to find whether the disputed signature of the P.W.1 contained in Sale Agreement was a scanned signature or manual signature. Towards which the report has been received with an opinion that the disputed signature was a manual signature. Thereafter, the P.W.1 has filed subsequent petitions for expert opinion and were dismissed on merits. The Revision preferred was also dismissed by the Hon’ble High Court of Madras. Further, no steps were also taken by the complainant to examine the witnesses to the disputed sale agreement. Under such circumstances, this Court finds 6 that the P.W.1 failed to establish that his signature was forged in the disputed sale agreement.

12. For the sake of discussion, even if taken otherwise, it is the version of complainant that the 1st and 2nd accused had forged his signature in the sale agreement. But, the 1st and 2nd accused were dead and



therefore the case can be proceeded only against the 3rd and 4th accused.

13. On careful scrutiny of the testimony of P.W.1, there is no specific averments as to how the 3rd and 4th accused aided the deceased 1st and 2nd accused in the alleged act of forgery. Admittedly, the 3rd and 4th accused were strangers to the complainant. The Complainant was also not aware about the scribe and witnesses to the disputed sale agreement. No specific overt act was assigned over the 3rd and 4th accused.

14. Despite scrutiny of the testimonies of P.W.1, P.W.2 and exhibits, this Court finds that there is no iota of evidence to infer that the 3rd and 4th accused has involved in offences punishable under section 465 and 420 of IPC.

15. In the light of above observations, when the presence of forged signature of P.W.1 in the disputed Sale Agreement was not proved and when the specific overt act of the 3rd and 4th accused were not spoken off, this Court finds that the complainant failed to prove his case of forgery against 3rd and 4th accused beyond all reasonable doubts. The case of the complainant falls flat.”



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9. The above observations of the Trial Court are perfectly in order. It is brought to the notice of this Court that pursuant to the decree passed in O.S.No.534 of 2000, the sale was registered in favour of the respondents 3 and 4. In the circumstances, the order of acquittal passed by the trial Court is perfectly in order. Hence, the Criminal Appeal is dismissed.

31.07.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

To

1. The District Munsif cum
Judicial Magistrate,
Uthukuli, Tiruppur.
2. The Section Officer,
Criminal Section,
Madras High Court,
Chennnai.



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R.HEMALATHA, J.

vum

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