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Crl.O.P.No.32398 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.32398 of 2019

Devaki

...Petitioner

-Vs-

1.S. Anandhakumar
The Proprietor,
M/s.Visual Dreams,
Flat H, 1st Floor,
Lakshmi Appartments,
No.61, Rangoon Street,
Mount Road,
Chennai – 600 006.

2.S. Santhosh Kumar
No.61, Rangoon Street,
Mount Road,
Chennai – 600 006.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order passed in Crl.R.C.No.34 of 2018 on the file of the Principal Sessions Judge, Chennai dated 06.07.2019 confirming the order passed in Crl.M.P.No.1929 of 2018 in C.C.No.1729 of 2011 on the file of the Chief Metropolitan Magistrate, Allikulam, Chennai dated 14.06.2018.

For Petitioner : Mr. C. K. M. Appaji

For Respondents : Mr. M. L. Ramesh



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ORDER

This Criminal Original Petition has been filed seeking to set aside the order passed in Crl.R.C.No.34 of 2018 on the file of the Principal Sessions Judge, Chennai dated 06.07.2019 confirming the order passed in Crl.M.P.No.1929 of 2018 in C.C.No.1729 of 2011 on the file of the Chief Metropolitan Magistrate, Allikulam, Chennai dated 14.06.2018.

2.The petitioner lodged the complaint against the respondents herein originally on 13.03.2007 on the ground that the respondents had misrepresented themselves as an authorized dealer for importing Digital Printing Machine from China and cheated the petitioner by giving a machine, which was not in a good condition. The said complaint has referred as mistake of fact. Thereafter, the petitioner protested against the referred charge sheet and the complaint was taken on file on the protest made by the petitioner in C.C.No.1729 of 2011. After examination of the witness, the respondents filed discharge petition in Crl.M.P.No.1929 of 2018. The learned Chief Metropolitan Magistrate, Allikulam, allowed the discharge petition on the ground that the offence under Section 420 IPC is not made out. The learned Magistrate relied upon the evidence of PW-1 and PW-2 to come to the said conclusion. The learned Principal Sessions Judge, on revision found that the order passed by the learned



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Magistrate was in accordance with law and dismissed the revision petition filed by the petitioner.

3.The grievance of the petitioner is that the machine imported by the respondents did not function properly. The petitioner has other remedies to address her grievance. The allegations prima facie do not constitute the offence of cheating as rightly held by the Courts below. The evidence of PW-1 extracted by the trial Court would show that the respondents had taken efforts to rectify the errors pointed out by the petitioner. In such view of the matter, this Court finds that there was no deception at the inception, which is essential to attract the offence under Section 420 IPC. This Court on perusal of the orders passed by the Courts below finds that they are in accordance with law and do not call for any interference. Accordingly, this Criminal Original Petition is dismissed.

19.06.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To,



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- 1.The Principal Sessions Judge, Chennai.
- 2.The Chief Metropolitan Magistrate, Allikulam.
- 2.The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN,J.
smv

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