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Crl.R.C.No.933 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.933 of 2022

Senthilkumar

... Petitioner

Vs.

Manonmani

... Respondent

Prayer : Criminal Revision Case filed under Section 397 and 401 Cr.P.C, to call for the records and to set aside the order dated 14.06.2022 made in Crl.M.P.No.3523 of 2022 passed by the learned Judicial Magistrate, Dharapuram and allow the petition.

For Petitioner : Mr.P.Kalimuthu

For Respondent : Mr.N.Manoharan

ORDER

This Criminal Revision Case is filed to set aside the order dated 14.06.2022 made in Crl.M.P.No.3523 of 2022 passed by the learned Judicial Magistrate, Dharapuram.



Crl.R.C.No.933 of 2022

WEB COPY

2. The case of the petitioner is that, the respondent/wife filed M.C.No.3 of 2015 seeking maintenance for her and her minor child and she deposed as P.W.1. During cross examination, while she was shown a copy of the sale deed, which was executed by her parents vide Doc.No.1066 of 2016, the same was denied by the respondent herein, which is a false evidence deposed by her before the Trial Court which prompted the petitioner to file a complaint under Sections 191, 192 and 193 of IPC in C.M.P.No.3523 of 2022 in M.C.No.3 of 2015. However, after adjudication, the Trial Court dismissed the said petition. Aggrieved by the same, the present revision is filed.

3. The learned counsel appearing for the petitioner submitted that, it is the crucial document, which was relied upon by the petitioner during the cross examination of P.W.1. It is the sale deed executed by the parents of the respondent herein in her favour in which the photographs of her father and sister are affixed, but the said document was denied by the respondent, which is a clear case of false evidence on oath and if the said document is taken on record, it will reveal the earning capacity of the respondent. Accordingly, he prays for allowing the revision.



Crl.R.C.No.933 of 2022

WEB COPY

4. Per contra, the learned counsel appearing for the respondent herein submitted that mere denial of the copy of the sale deed, which has been produced by the petitioner, inadvertently cannot be taken to mean that the respondent has given false evidence on oath and, therefore, has to be proceeded with for the offence under Sections 191, 192 and 193 of IPC. Only if any person gives false evidence intentionally on oath, it attracts penal provision under Sections 191, 192 and 193 of IPC and the satisfaction of the court is mandatory for taking cognizance against the person who has given false evidence on oath with an intent to defraud. In the present case, the Trial Court itself had arrived at a conclusion that the said evidence was not intentional and, therefore, the said finding does not require any interference. Accordingly, he prays for dismissal of revision.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. Provisions of Sections 191, 192 and 193 of IPC stand attracted



Crl.R.C.No.933 of 2022

when false evidence is given intentionally by any person on oath.

However, mere giving of evidence, which is found to be false, but without there being an intention, cannot come within the four corners of Sections 191, 192 and 193 IPC. Further, the satisfaction of the court is mandatory for taking cognizance against any person, who is alleged to have given false evidence.

7. In the case on hand, the Trial Court itself has arrived at a conclusion that the evidence given, be it false, is not intentional. There is no material placed by the petitioner to show that the evidence tendered by the respondent herein is intentional, though it may have been false. So long as there is no material to show that the act of the respondent herein has not been intentional, on which the court below, being satisfied, has rendered a finding that the act of the respondent herein is not intentional, rightly, the court below has not adhered to the request of the petitioner for proceeding against the respondent herein for the offence u/s 191, 192 and 193 IPC. Therefore, no interference is called for with the order passed by the court below.



Crl.R.C.No.933 of 2022

WEB COPY

8. For the reasons aforesaid, this criminal revision fails and the same is dismissed. However, it is open to the petitioner to rely upon the said document by marking the same as defence evidence before the Trial Court for appropriate adjudication at the time of final hearing of the case.

02.04.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
sp

To

The Judicial Magistrate, Dharapuram.



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Crl.R.C.No.933 of 2022

M.DHANDAPANI, J.

sp

Crl.R.C.No.933 of 2022

02.04.2024