

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 374 OF 2024

Criminal Revision Case filed under Section 397 R/w 401 of Cr.PC against the Judgment dated 16.04.2015 made in CrI.A.No.133 of 2015 on the file of the Court of the Metropolitan Sessions Judge, Hyderabad preferred against the Order dated 12.01.2015 made in C.C.No.139 of 2009 on the file of the Court of the IV Additional Chief Metropolitan Magistrate, Hyderabad.

Between:

Smt.Archana Biswal, W/o. Subhash Chandra Biswal, Hindu, aged about 42 years, R/ o. Flat No.32, Redgewood, Pandurangapuram, Beach Road, Visakhapatnam.

...Petitioner/Respondent

AND

1. The State of Telangana., Rep. by its Public Prosecutor, High Court of A.P, Hyderabad.

...Respondent/Respondent

2. Smt. Tripurana Bhagyalakshmi, W/o. T.Sreerama Murthy, Hindu, aged about 67 years, R/o. D.No.45, Lakshmi Kalyan Apartments, Street No.13, Tarnaka, Secunderabad.

...Respondent/Accused

Counsel for the Petitioner : Smt. Krishnaveni representing Sri S Sridhar

**Counsel for the Respondent No.1 : Sri Vizarath Ali, Assistant
Public Prosecutor**

Counsel for the Respondent No.2 : _ _ _

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL

CRIMINAL REVISION CASE No. 374 OF 2024

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., aggrieved by the judgment dated 16.04.2015 passed in Crl. Appeal No. 133 of 2015. By the said judgment, the learned Metropolitan Sessions Judge, Hyderabad (for short 'the appellate Court') allowed the appeal setting aside the judgment passed by the IV Additional Chief Metropolitan Magistrate, Hyderabad (for short 'the trial Court'), in C.C.No.139 of 2009.

2. Heard Smt.Krishnaveni, learned counsel representing the petitioner/*de facto* complainant and Sri Vizarith Ali, Assistant Public Prosecutor representing the respondent No.1-State.

3. The case of the complainant in brief is that, the complainant filed a private complaint alleging that she purchased property from the accused for a consideration of Rs.50 lakhs and paid the entire sale consideration to him and that a sale deed was executed on 16.9.2005. Prior to the execution of sale deed, the complainant handed over two cheques for Rs.2 lakhs, one from her account and another

from her husband's account. The accused promised to return the same after receipt of entire consideration, but he did not do so. Accused stated that they were misplaced. As things stood thus, the accused sent a notice stating that the consideration amount was fixed at Rs.80 lakhs and Rs.4 lakhs is not yet paid and that the cheques were issued towards the said consideration and they were dishonoured when they were presented for collection. Hence the complaint. On receipt of the said complaint from the Court, the Police, Bhubaneswar registered the said complaint in crime No.48 of 2007 and after completion of investigation, filed charge sheet against the accused for the offence under Section 420 of IPC.

4. The learned Trial Court after appreciating the evidence brought on record i.e., PWs. 1 to 3 and Exs.P.1 to P.7, found the accused guilty for the offence under Section 420 IPC and sentenced her to undergo Simple Imprisonment till rising of the Court and to pay a fine of Rs.5,000/- and in default undergo Simple Imprisonment for one month. Aggrieved thereby the accused preferred an appeal before the appellate Court and the appeal was allowed by the said appellate Court.

Aggrieved thereby, the complainant preferred the present Revision.

5. Learned counsel for the Revision Petitioner would submit that though the trial Court had rightly convicted the accused for the offence under Section 420 of IPC, the appellate Court failed to appreciate the evidence available on record and erred in acquitting the accused. Therefore, prayed to allow the Revision.

6. Learned Assistant Public Prosecutor would submit that the findings of the trial Court was reversed by the appellate Court by meticulously observing all the facts and circumstances and therefore, no need to interfere with the judgment passed by the appellate Court.

7. A perusal of the material available on record shows that PW-1 stated that herself and her husband gave cheques for Rs.2 lakhs each with a promise that they would be returned at the time of registration and after receipt of entire consideration. Therefore, there is a dispute with regard to the payment of sale consideration. The facts show that the

accused executed the sale deed in favour of the complainant. The said cheques might have obtained as a security or towards balance sale consideration. Thus it is very clear that if the complainant had insisted for return of those cheques, and would have stopped from proceeding with the execution of sale deed, definitely the cheques would not have been presented. But no such efforts were made by the complainant. Further no independent witness was examined in support of her case. In view of the above facts and circumstances, the appellate Court rightly given benefit of doubt to the accused and allowed the appeal. Hence, there are no grounds to interfere with the judgment passed by the appellate Court.

8. Accordingly, this Criminal Revision Case is dismissed.
No order as to costs.

Miscellaneous Petitions, pending if any, shall stand closed.

SD/- T SRINIVAS,
DEPUTY REGISTRAR.

//TRUE COPY//

SECTION OFFICER

To,

1. The Metropolitan Sessions Judge, Hyderabad
2. The IV Additional Chief Metropolitan Magistrate, Hyderabad
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
4. One CC to SRI S SRIDHAR, Advocate [OPUC]
5. Two CD Copies

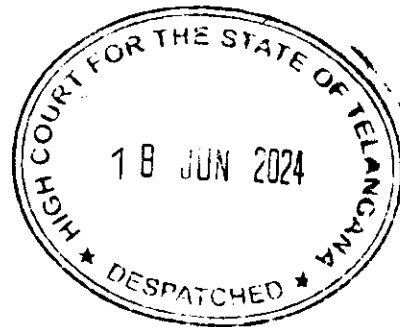
ADK

HIGH COURT

DATED:08/01/2024

ORDER

CRLRC.No.374 of 2024



DISMISSING THE CRLRC

⑧
11/06/24
k.v.s