

ibrahim Vs. Vinod

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Court : Kerala

Decided On : Jan-01-2014

Judge : Honourable Mr. Justice a.Hariprasad

Appellant : ibrahim

Respondent : Vinod

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.HARIPRASAD WEDNESDAY,THE1T DAY OF JANUARY201411TH POUSHA, 1935 CrI.MC.No. 477 of 2012 () ----- CC2332011 of JUDICIAL FIRST CLASS MAGISTRATE COURT,KUNNAMKULAM PETITIONER(S)/ACCUSED:

----- (*) IBRAHIM S/O.AHAMMED, (PAMPUNGAL HOUSE, EDAKKALATHOOR VILLAGE THRISSUR DISTRICT.) ADDRESS CORRECTED AND SUBSTITUTED PETITIONER'S ADDRESS IS CORRECTED AS: IBRAHIM, S/O.AHAMMED,AYISHA MANZIL, CHAKRAMAKKIL HOUSE, P.O.PUTHIYARA, VATTERI,PIPE LINE ROAD, KOZHIKODE DISTRICT. AS PER

ORDER

DATED123/12 IN CRL.MA136912 IN CRL.MC NO.477/12 BY ADV. SRI.P.V.KUNHIKRISHNAN COMPLAINANT(S)/COMPLAINANT :

----- (*) 1. VINOD S/O.SANKUNNI, (AYISHA MANZIL, CHAKRAMAKKIL HOUSE P.O.PUTHIYARA, VATTERIPIPE LINE

ROAD KOZHIKODE DISTRICT-673 004.) ADDRESS CORRECTED AND
SUBSTITUTED1T RESPONDENT'S ADDRESS IS CORRECTED AS: VINOD
S/O.SANKUNNI, PAMPUNGAL HOUSE, EDAKKALATHOOR VILLAGE
THRISSUR DISTRICT AS PER

ORDER

DATED123/12 IN CRL.MA136912 IN CRL.MC477/12 2. STATE OF KERALA,
REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-31. R2 BY PUBLIC PROSECUTOR BY PUBLIC PROSECUTOR
SMT.BINDU GOPINATH THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY
HEARD ON0101-2014, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: CRL.MC NO.477/2012 APPENDIX PETITIONER(S) EXHIBITS
ANNEXURE A: A COPY OF THE COMPLAINT IN CC2332011 ON THE FILE OF
JUDICIAL FIRST CLASS MAGISTRATE COURT,KUNNAMKULAM. ANNEXURE
B: A COPY OF EVIDENCE ADDUCED BY THE1T RESPONDENT UNDER
SECTION200CR.PC.DATED199/2009. ANNEXURE C: A COPY OF THE
EVIDENCE ADDUCED BYAJITH UNDER
SECTION202CR.PC.DATED3110/2009. ANNEXURE D: A COPY OF THE
PROCEEDINGS PAPER IN CC2332011 ON THE FILE OF JUDICIAL1T CLASS
MAGISTRATE COURT, KUNNAMKULAM. ANNEXURE E: A COPY OF THE
AGREEMENT EXECUTED BY THE PETITIONER AND THE1T RESPONDENT
DATED1711/2008. ANNEXURE F: A COPY OF THE PLAINT IN OS.1594/2008
ON THE FILE OF SUB COURT, THRISSUR DATED1311/2008. RESPONDENTS'
EXHIBITS: NIL //TRUE COPY// A.HARIPRASAD, J.

----- Crl.M.C. No.477 of 2012
----- Dated this the 1st day of January, 2014.

ORDER

Petitioner is the accused in C.C.No.233 of 2011 on the file of the Judicial First
Class Magistrate Court, Kunnamkulam. Annexure A is the complaint. Gist of
allegations against the petitioner is that he entered into an agreement with the
complainant for purchase of a land. Thereafter the land was conveyed to the
petitioner by virtue of a registered document. At the time of finalisation of the deal

an amount of `8,33,400/- was outstanding as balance consideration. Learned counsel for the petitioner submitted that the vendor/complainant had already agreed to sell this property to one Dr.Saifu and there was some dispute between the complainant and Dr.Saifu which was not known to the petitioner at the time of purchase. Having come to know about that dispute, balance amount was retained and that is mentioned in an agreement, which is produced as Annexure E. Annexure F is the copy of the plaint filed by Dr.Saifu against the complainant and his wife claiming compensation for the breach of contract. Learned counsel for the petitioner submitted that in paragraph 2 of the petition, petitioner has specifically stated that the amount of `8,33,400/- is retained by the petitioner as agreed to by the CrI.MC No.477/2012 2 parties in Annexure E for meeting possible future expenses. It is also submitted that immediately the civil suit is settled or disposed of, the petitioner will pay the balance amount found to be due to the complainant as stated in Annexure E. On going through the materials on record, I am satisfied that the dispute predominantly is of a civil nature. The offence of cheating alleged against the petitioner will not lie in a legal sense because breach of an agreement cannot be termed as an offence falling within the definition of cheating under Section 420 of the Indian Penal Code. Therefore, the petition is to be allowed to meet the ends of justice. In the result, petition is allowed. The complaint in C.C.No.233 of 2011 pending before the Judicial First Class Magistrate Court-IV, Kunnankulam is hereby quashed. All pending interlocutory applications will stand dismissed. A. HARIPRASAD, JUDGE. cks

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