

Sajeevan vs Raphael

Sajeevan vs Raphael

SooperKanoon Citation : sooperkanoon.com/1291375

Court : Kerala Orders

Decided On : May-28-2024

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.Rev.Pet/1215/2013

Appellant : Sajeevan

Respondent : Raphael

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
TUESDAY, THE 28TH DAY OF MAY 2024 / 7TH JYAISHTA, 1946
AGAINST THE ORDER DATED 10.01.2013 IN CC NO.217 OF 2002 OF
CHIEF JUDICIAL MAGISTRATE, THRISSUR REVISION
PETITIONER/COMPLAINANT: SAJEEVAN S/O. RAMAKRISHNAN,
MUNDAKKAL HOUSE, R.V.PURAM COLONY P.O., CHALAKUDY,
TRICHUR DIST. SRI.T.M.CHANDRAN SRI.S.SUJITH
RESPONDENTS/ACCUSED NOS.2 AND 3: 1 RAPHAEL,
PROPRIETOR, RENIL AUTO GARAGE, KECHERI, TRICHUR
DISTRICT. 2 P.HUSSAIN, PADIPURAKKAD HOUSE, MANNOOR
WEST, PALAKKAD DISTRICT. 3 STATE OF KERALA REPRESENTED

BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
DEEPU THANKAN SRI.P.U.SHAILAJAN THIS CRIMINAL REVISION
PETITION HAVING COME UP FOR ADMISSION ON 28.05.2024, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The revision is against the order discharging the accused by the trial court for the offence punishable under Sections 120B, 406, 420 r/w 34 IPC. Initially, a private complaint was filed alleging offences under Sections 120B, 406 and 420 IPC. The issue involved is purely civil in nature. Breach of an obligation arising out of contract or understanding may not by itself attract the offence punishable under Section 420 IPC. In order to bring home the offence under Section 420 IPC, besides the entrustment of property either fraudulently or deceptively, the ingredients which would constitute cheating as defined under Section 415 IPC has to be established. It is really lacking in the present case in hand. Necessarily, the offence under Section 420 IPC will not stand. A mere breach of an obligation arising out of contract unless constitute the ingredients to satisfy entrustment, and its breach will not constitute or attract the offence under Section 406 IPC. Necessarily, the impugned

order deserves no interference. The Criminal Revision

Petition fails and is dismissed. Sd/- P.SOMARAJAN JUDGE msp

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com