

Amhalavanan Vs. A. Anhalagan

Amhalavanan Vs. A. Anhalagan

SooperKanoon Citation : sooperkanoon.com/790771

Court : Chennai

Decided On : Jul-28-1999

Reported in : 1999(3)CTC36

Judge : N. Dhinakar, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) -- Sections 482; [Indian Penal Code \(IPC\), 1860](#) -- Sections 420

Appeal No. : Crl.O.P.No. 9207 of 98 and Crl.O.P.No. 3692 of 1998

Appellant : Amhalavanan

Respondent : A. Anhalagan

Advocate for Def. : Mr. Ashokumar, Adv.

Advocate for Pet/Ap. : Mr. A. Packiaraj. Adv.

Judgement :

ORDER

Judgement Pronounced by N. Dhinakar, J.

1. Petitioner is the second accused in C.C. No. 56 of 1998 on the file of the Judicial Magistrate, Ariyalur, and the proceedings against him and another came to be initiated by way of a private complaint at the instance of the respondent for

an offence under Section 420 IPC. In the said complaint, the respondent has alleged that the petitioner wanted him to sell some lands and that he refused and later, agreed to sell them and accordingly, the sale deed was executed and the property was conveyed through the said sale deed. It is the further allegation in the complaint that one of the considerations for the said sale is the promise made by the petitioner to offer transport contract for transporting limestones and that later, the petitioner went back on his promise and the contract was offered to other persons.

2. In my view, the allegations in the complaint did not make out an offence punishable under section 420 IPC since the ingredients of the offence are not made out. It is the admitted case that the lands were sought to be purchased by the petitioner from the respondent and the respondent also conveyed the property by way of a sale deed. The fact that the petitioner offered to give contracts to the respondent for transporting limestones and that he did not give any such contract after the purchase, is not a ground to prosecute the petitioner, stating that he has cheated.

3. For the offence of cheating, the ingredients required are that the person must make a fraudulent or dishonest inducement to the person deceived to deliver any property to any person. Here, the property was not obtained by any fraudulent or dishonest inducement since the property itself was sold as admitted by the complainant himself for a consideration mentioned in the sale deed.

4. On the averments made in the complaint. I am of the view that allowing the prosecution to continue against the petitioner will amount to abuse of process of court. Therefore, the proceedings in C.C.No. 56 of 1998 on the file of the Judicial Magistrate, Ariyalur, are quashed. In the result, the Crl.O.P. is allowed. Consequently, Crl.M.P.No. 3692 of 1998 is closed.