

A

N. DEVINDRAPPA  
v  
STATE OF KARNATAKA

MAY 7, 2007

B

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

*Penal Code, 1860; s.420:*

C

*Cheating—Dishonestly inducing complainant to pay certain amount of money promising to allot him a plot under a Scheme—Plot not allotted—Complaint—Trial Court convicting him under s.420 IPC and sentenced him accordingly—Conviction affirmed by High Court by modifying the sentence—On appeal, Held: Accused cheated many persons—Evidence of the complainant is corroborated by exhibits-documents bearing his signature-handwriting of accused testified by the handwriting expert—Hence, offence under Section 420 IPC is made out—Since Courts below recorded a finding of fact based on evidence on record, there is no reason to disagree with the same.*

D

E

**Appellant, a retired Head Master, allegedly cheated the complainant by dishonestly inducing him to pay certain amount in cash assuring him to allot a plot. However, the plot was not allotted to him. Trial Court found him guilty of committing the offence under Section 420 IPC, convicted and sentenced him accordingly. The High Court while upholding the conviction of the appellant u/s. 420 IPC modified the sentence and instead sentenced him to undergo simple imprisonment of six months and to pay fine. Hence the present appeal.**

F

**Dismissing the appeal, the Court**

G

**HELD: 1.1. Appellant had cheated many persons and not merely the complainant. The evidence of the complainant is corroborated by Ex. P 2 and Ex. P 3 and these two documents bear the signatures of the accused and the complainant and the handwriting of the accused is testified by the handwriting expert. The issuance of the bogus receipts P 2 and P 3 by the accused given to the complainant, definitely amounts to cheating as also inducement of the complainant that he would be provided a plot by the accused in six months or a year. Since property includes money, hence, the offence under Section 420**

H

**IPC is made out. There was definitely dishonest intention on the part of the appellant. [Para 8] [38-D-F]** A

**1.2. The Courts below have considered the evidence in great detail and recorded findings of fact based on the evidence on record and there is no reason to disagree with the same. [Para 10] [39-B]**

**CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 686 of 2007.** B

From the Final Judgment and Order dated 10.04.2006 of the High Court of Karnataka, Bangalore in Crl. R.P. No. 880 of 2003. C

Vikas Rojipura and E.C. Vidya Sagar for the Appellant.

Anitha Shenoy for the Respondent.

The Judgment of the Court was delivered by

**MARKANDEY KATJU, J. 1. Leave granted.** D

2. This appeal has been filed against the impugned judgment of the Karnataka High Court dated 10.04.2006 in Criminal Revision Petition No. 880 of 2003.

3. Heard learned counsel for the parties and perused the record. E

4. The High Court while upholding the conviction of the appellant under Section 420 I.P.C modified the sentence and instead sentenced the appellant to undergo simple imprisonment of six months and to pay a fine of Rs.2,000/-, and in default to undergo a further period of two months simple imprisonment. F

5. The facts of the case are that the appellant is a retired Head Master of a school. He took voluntary retirement from service under the guise of doing social work. It is alleged that on 05.10.1995 and on 18.11.1995 the appellant cheated the complainant by dishonestly inducing him to pay Rs.2,000/- to the appellant in cash assuring the said complainant to allot him a plot, though the said property was not even the property of the appellant. G

6. The case of the appellant was that he had no intention to cheat the complainant and the case is of civil nature. On the other hand, the case of H

A the prosecution was that the appellant accused was not the owner of the land and he made the complainant to believe that he was the owner of the land and for selling a plot of the land he received part of the sale consideration as advance from the complainant though he subsequently did not allot him any land despite repeated requests.

B 7. We have carefully perused the record as well as the judgments of the courts below. At the outset, we would like to say that an act can result in both civil and criminal liability. Hence, merely because the act of the appellant has civil liability that does not mean that it cannot also have criminal liability.

C 8. The finding of fact of both the courts below is that the appellant dishonestly induced the complainant to deliver him Rs.2,000/- as advance in cash as part payment alleged for sale of the plot of land in question, knowing fully that he was not the owner of the said plot. It has been held that the appellant deceived the complainant. It has also come in evidence that the appellant had similarly deceived several other persons by saying that he would allot plots to them and he took money in advance but did not give them the plot. Thus, it appears that the appellant had cheated many persons and not merely the complainant. For instance, PW9 Sri Sitaram Kalanji had made similar allegations against the accused. The evidence of the complainant is corroborated by Ex. P 2 and Ex. P 3 and these two documents bear the signatures of the accused and the complainant and the handwriting of the accused is testified by the handwriting expert. The issuance of the bogus receipts P 2 and P 3 by the accused given to the complainant, in our opinion, definitely amounts to cheating as also inducement of the complainant that he would be provided a plot by the accused in six months or a year. Since property includes money, hence the offence under Section 420 I.P.C. is made out. In our opinion, there was definitely dishonest intention on the part of the appellant.

H 9. The complainant Ranchandrappa Bhrammeri, PW1, has deposed that the accused gave an impression that he was distributing sites to the poor persons as representative of Rajiv Gandhi Badavara Kshemabhiruddi Sangha and on 5.10.1995 the accused came to his shop and assured him that he would also get one house site in the land at the rate of Rs.3,000/- per gunta. PW1 further deposed that believing the words of the accused he gave Rs.2,000/- to him as part payment and the accused gave him receipt for having received the amount under his signature. PW 1 further stated that the accused assured him that he would get possession of the plot in question within 6

to 8 months and one day took him to the village where the plot was situated and showed him one land saying that a plot would be given to him from the said land. However, the accused did not give him possession of the plot and went on postponing the same by assuring him that he would be given the plot and the accused always made him believe his words. A

10. The courts below have considered the evidence in great detail and recorded findings of fact based on the evidence on record and we see no reason to disagree with the same. B

11. There is r.o force in the appeal and it is accordingly dismissed.

S.K.S.

Appeal dismissed. C