

Crl.O.P.No.15567 of 2015
in
Crl.A.SR.No.27195 of 2015

P.DEVADASS, J.

The appellant, who is the complainant before the trial court in a cheque bouncing case seeks leave of this Court, as against the order of acquittal passed in S.T.C.No.32/2014 on the file of the learned Judicial Magistrate, Fast Track Court, (Magisterial Level), Tiruchengode on 22.04.2015.

2. The learned counsel for the petitioner/complainant contended that Ex.P1 Cheque for Rs.10 lakhs has been issued by the respondent to the petitioner/complainant, without keeping sufficient funds in his bank account, all the necessary formalities were completed including issuing of legal notice. Oral and documentary evidence has been adduced that an offence under Section 138 N.I. Act has been committed. However, the trial court acquitted the respondent on certain wrong premises. The trial court formed a general view that the cheques more particularly, the cheques issued by a lawyer will be in writing, but the subject cheque in this case since has been typed, appears to be curious, uncommon and further there is no categorical finding by the trial court that the cheque has been misused by the petitioner by abusing his position as a legal adviser to the firm.

4. The learned counsel for the petitioner would further submit that the

P.DEVADASS, J.

mrp

signature has also not been denied in the reply to the legal notice. In such circumstances, legal presumption arises and that has to be displaced by acceptable evidence or inferences and suppositions can be drawn based on evidence. But, in this case, since the complainant is a lawyer, he was equated to a man with super brain. The learned counsel for the petitioner would submit that the said adverse finding recorded as against the complainant suffers from perversity.

5. I have anxiously considered the submissions of the learned counsel for the petitioner/appellant and also perused the impugned Judgment. This appeal presents certain eminently arguable points.

6. Petition allowed. Leave granted.

26.06.2015

Index : yes/no

Internet : yes/no

mrp

Crl.O.P.No.15567 of 2015 in

Crl.A.SR.No.27195 of 2015