IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2016

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.643 of 2010

T.Udayashankar .. Petitioner

vs.

1.Hemantkumar

2. The Sub-Inspector of Police
F4 Thousand Lights Police Station
Chennai - 600006
Crime No.648 of 2000 .. Respondents

Criminal Revision filed under section 397 and 401 Cr.P.C. against the order passed by the learned XIV Metropolitan Magistrate, Egmore, dated 27.01.2010 made in C.C.No.8249 of 2002.

For Petitioner :Mr.S.N.Arun Kumar

For Respondents :Mrs.M.F.Shabana for R2
Government Advocate (Crl Side)

O R D E R

This revision challenges the order passed by the XIV Metropolitan Magistrate, Egmore in C.C.No.8249 of 2002 on 27.01.2010

2. The prosecution case is that the accused, who was working as a Senior Sales Executive in the complainant company, collected cheques from the customers to the tune of Rs.30,000/- in his name instead of in the company's name and misappropriated monies. A case was registered in Crime No.648 of 2000 on the file of respondent and upon completion of investigation and filing of charge sheet informing commission of offence u/s.408 IPC, the case was tried in C.C.No.8249 of 2002 on the file of learned XIV Metropolitan Magistrate, Egmore.

3. Before the trial Court, the prosecution examined five witnesses and marked eight exhibits. None were examined nor were any exhibits marked on behalf of the defence.

4. On appreciation of materials before it, the trial Court acquitted the accused under judgment dated 27.01.2010. Aggrieved by such judgment, the petitioner has filed this revision.

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5. Heard learned counsel for petitioner and learned Government Advocate (Crl.side)

6. In arriving at a finding of acquittal, the trial Court has reasoned as follows:

(i) Though PW1 deposed to the effect that the accused collected cheques from PW3 and one Ashok Dagga in his name and misappropriated the same, PW3 deposed to the effect that he issued the cheque in the name of the accused only as per the instructions of the General Manager of the Complainant company informing that the said amount is to be used by the accused for the marriage of one of the employees and the same was not disproved by examining the General Manager.

(ii) PW2, in chief examination , deposed to the effect that he had given Rs.5,000/- to the accused towards the dues of the Company and the same was not remitted to the complainant. In cross, he deposed to the effect that the accused was not in the habit of coming and collecting money alone and 4 to 5 persons of the complainant company used to accompany the accused and he used to remit the money to the complainant company regularly.

(iii) The Court below has also reasoned that the prosecution has not produced any statement of account to show that the amount was collected by the accused on behalf of the complainant company. Though Ex.P6 was marked on the side of the prosecution, the prosecution has not proved that the accused purchased Symphony Air Cooler for his own purpose and not for the complainant company.

7. This Court finds no error in the reasoning of the trial Court in acquitting the accused.

This Criminal Revision shall stand dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. XIV Metropolitan Magistrate,
   Fast Track Court No.II,
   Egmore, Chennai.

2. -Do- Thro the Chief Judicial Magistrate,
   Egmore, Chennai.

3.The Sub Inspector of Police,
   F4 Thousand Lights Police Station,
   Chennai-6.

4.The Public Prosecutor
   High Court, Madras.

+1cc to Mr.S.N.Arunkumar, Advocate, S.R.No.3696

Crl.R.C.No.643 of 2010

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